EXPLOITED AND MISSING CHILDREN

HEARING

BEFORE THE

SUBCOMMITTEE ON JUVENILE JUSTICE

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

S. 1701

TO AMEND TITLE 28, UNITED STATES CODE, TO AUTHORIZE THE ATTORNEY GENERAL TO ACQUIRE AND EXCHANGE INFORMATION TO ASSIST FEDERAL, STATE, AND LOCAL OFFICIALS IN THE IDENTIFICATION OF CERTAIN DECEASED INDIVIDUALS AND IN THE LOCATION OF MISSING CHILDREN AND OTHER SPECIFIED INDIVIDUALS

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EXPLOITED AND MISSING CHILDREN

THURSDAY, APRIL 1, 1982

U.S. SENATE,
SUBCOMMITTEE ON JUVENILE JUSTICE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, in room 412, Russell Senate Office Building, commencing at 9:35 a.m., Hon. Arlen Specter (chairman of the subcommittee) presiding.

Staff: Bruce A. Cohen, chief counsel; and Mary Louise Westmoreland, counsel.

OPENING STATEMENT OF HON. ARLEN SPECTER, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA, CHAIRMAN, SUBCOMMITTEE ON JUVENILE JUSTICE

Senator SPECTER. Good morning, ladies and gentlemen. We will convene the hearings now of the Juvenile Justice Subcommittee of the Senate Judiciary Committee.

Last November 5 we commenced in this committee the investigation into the sexual exploitation of juveniles in connection with our general concerns about the problems of juvenile delinquency and the impact on juveniles of the kind of activity affecting later criminal conduct. One aspect of great concern is the issue of child pornography, that it has become a multimillion-dollar business and has affected the loss of thousands of children having been exposed to photography and incidental abuse.

The Federal laws that prohibit the production of child pornography and the distribution of child pornography and transportation of minors across State lines are fields where existing legislation is not strong enough. Today we are going to be moving into that area.

Our first witness is an ordained minister and former high school teacher who recently entered a guilty plea in State court on 12 counts of sexual activity involving 13- to 15-year-old boys. He has begun his probationary sentence and is making an effort to pull his life together.

In agreeing to come forward and testify to lend his assistance on this problem by providing testimony, we are asking that he not be identified in any way. We are not identifying him by name and would appreciate the cooperation of the news media in this regard as a means of assisting him in his rehabilitation.

Would the witness step forward, please?

Your name and address will be recorded on the records of the subcommittee but we shall not ask you to repeat it here.

Would you set forth the circumstances of the guilty plea and the underlying facts which led you to enter that plea?

STATEMENT OF THE WITNESS, AN ORDAINED MINISTER AND FORMER HIGH SCHOOL TEACHER

The WITNESS. About 1 year ago I was arrested and charged with 14 different counts. I pleaded guilty to those charges in January and was sentenced in March.

Senator SPECTER. Before detailing the specific charges, give us a little background on yourself. How old are you?

The WITNESS. I am about 50 years old.

Senator SPECTER. And what is your educational background?

The WITNESS. I have a master's degree in history. After I graduated from college I went into the Air Force and served 3 years there.

Senator SPECTER. And what was your discharge rank?

The WITNESS. First lieutenant.

Senator SPECTER. What kind of work did you do in the Air Force?

The WITNESS. I was a pilot with the Strategic Air Command, a pilot on a B–47.

Senator SPECTER. And where were you stationed?

The WITNESS. At Dyess Air Force Base in Abilene, Tex.

Senator SPECTER. And following discharge from the Air Force, where did you then serve?

The WITNESS. I went back to graduate school for my master's degree in history and then I began teaching school, I taught for 11 years.

Senator SPECTER. And what grades did you teach?

The WITNESS. Three years in junior high and 8 years in senior high level, American history, American government. At that point in my life a divorce occurred. I entered the seminary, went to seminary for 3½ years. Three of those years I served as a student pastor as well as a student. After graduation and ordination, I served another church for 6 years, moved to a church in the town where I was arrested, and I served there for 7 months.

Senator SPECTER. You served only 7 months prior to the time of your arrest?

The WITNESS. Yes, in this new church assignment.

Senator SPECTER. How long had you served as a minister prior to that 7 months?

The WITNESS. Counting the 3 years as a student pastor, I served a total 9½ to 10 years.

Senator SPECTER. And how long ago was it that you were arrested?

The WITNESS. About 1 year ago, last April.

Senator SPECTER. Are you willing to tell us the general section of the country where you hail from, the Midwest, Southwest——

The WITNESS. In the Midwest.

Senator SPECTER. What specific crimes were you charged with that you pleaded guilty to?

The WITNESS. I think I recall 11 counts of sodomy in different degrees and then 3 other charges relating to distribution of literature, distribution of alcohol, and marihuana.

Senator SPECTER. What kind of literature did you distribute; was it pornographic?

The WITNESS. Actually I only did that on one occasion and it was pornographic. I describe them as girly magazines.

Senator SPECTER. Whom did you distribute the girly magazines and pornographic literature to?

The WITNESS. To the boys that I picked up.

Senator SPECTER. How many boys were involved, as you say, you picked up?

The WITNESS. It seems to me that the counts, the 11 counts—or the 14 counts would deal with I think four or five boys. There had been others.

Senator SPECTER. How many others had there been?

The WITNESS. I really cannot answer that because I do not really know.

Senator SPECTER. Can you give me an estimate?

The WITNESS. Quite a few.

Senator SPECTER. Several dozen?

The WITNESS. Several dozen.

Senator SPECTER. Fifty?

The WITNESS. Several dozen I think might be more accurate and in various cities.

Senator SPECTER. Are you willing to identify the cities?

The WITNESS. Yes, if that would be helpful.

Senator SPECTER. Yes.

The WITNESS. In no order, St. Louis, Cincinnati, Indianapolis, Louisville, Cleveland.

Senator SPECTER. What was the youngest of the boys?

The WITNESS. The youngest boy turned out to be 13.

Senator SPECTER. In the incident that you were suspected of, entered the guilty plea to?

The WITNESS. Yes, sir.

Senator SPECTER. How old was the oldest of the boys involved in the guilty pleas?

The WITNESS. I think 16. Almost 1 year—9 months went by and it seems to me one might have been 15 moving to 16. I am not quite sure. Let us say 13 to 16.

Senator SPECTER. What was the specific conduct that you were involved in that led to this guilty plea?

The WITNESS. Well, all of the boys that I did have sex with or some kind of relationship with were street hustlers. That is, they were out on the streets and were picked up that way.

Senator SPECTER. Are you saying that they hustled you as opposed to your hustling them?

The WITNESS. That is a difficult question. I think there is an element—I think there is an element of both.

Senator SPECTER. Well, who initiated the contacts? Take a specific case without identifying the boy and tell us how it happened, who contacted who, where did the meeting occur?

The WITNESS. Well, the initial contact, of course, is made by the adult offender.

Senator SPECTER. We are talking now about your case. We are talking about the initial contact that had been made by you.

The WITNESS. These boys would be sitting on steps on a main street or in a bus stop or standing on a corner.

Senator SPECTER. And what would happen?

The WITNESS. They are readily available. I would drive around or the procedure would be to cruise, cruise the area.

Senator SPECTER. You would drive by in your car?

The WITNESS. Right.

Senator SPECTER. You would spot a boy sitting on steps or standing in a bus stop or whatever?

The WITNESS. Yes.

Senator SPECTER. What would you do next?

The WITNESS. There would come a period of checking out—perhaps cruising some more, going around the block, circling until some kind of visual contact was made and then I would pull over at that spot or pull over down an alley or nearby and the boy would come over and a conversation would ensue.

Senator SPECTER. Describe the typical conversation, if you would, please? What would you say?

The WITNESS. Well, in my case, and I suppose it would be typical, there would be an urgency to get the boy into the car and invite him in and we would start driving around, out of those particular blocks, and I would say that very quickly the conversation moved to bargaining for a price with me more than anything else, a bargaining for how much he would be willing to go for.

Senator SPECTER. What was a customary price?

The WITNESS. Again in my case, anywhere from $5 to $20. I would say the most typical would be $10 or $15.

Senator SPECTER. That was a matter of negotiation, discussion between you and the boy?

The WITNESS. There was always a bargaining process, yes.

Senator SPECTER. What would happen next typically?

The WITNESS. I would then drive to a motel or my apartment or to my home, some other location usually.

Senator SPECTER. Then?

The WITNESS. Then very quickly sex would occur.

Senator SPECTER. Where do most of these boys come from, as best you understand?

The WITNESS. I would think that they come primarily from low-income housing in the near vicinity of those various locations in the different cities.

Senator SPECTER. Why do these boys get involved, to make the money? Any other factor?

The WITNESS. Yes, sir, I think so. I think the primary reason for them being on the street, their first goal is to make some money——

Senator SPECTER. Was there some reason beyond the primary reason?

The WITNESS. Yes. I believe that in every case they were also victims of some kind of abuse at home, perhaps——

Senator SPECTER. Did any of them tell you that, that they were victimized by abuse at home?

The WITNESS. Well, part of what went on, more than just sex for me—as I have analyzed myself—part of it with me was making

some kind of contact with these boys and sex was not really the only—or maybe even in my case the chief reason.

Senator SPECTER. Well, what was the chief reason?

The WITNESS. To, as I say, to make contact with these boys and to talk with them and perhaps to hear their problems. But, of course, in a selfish viewpoint, of course, I was using them to meet some of my needs of loneliness and wanting to make some kind of touching contact. Let me perhaps give one illustration. One boy came to my house and he did tell me that he had been locked out of his house.

Senator SPECTER. The young man told you he had been locked out of his house?

The WITNESS. Yes.

Senator SPECTER. Did you meet him by cruising around or picking him up in some neighborhood or did you meet him in some other way?

The WITNESS. In a neighborhood location. He came to my house and we began watching television and then I offered him some candy and before I knew it, he had eaten the whole box of candy and suddenly—I realized that it was not so much that he liked candy but that he was hungry and then I proceeded to fix a meal for him which he literally devoured because in fact he was hungry.

Senator SPECTER. Did any of these initial contacts develop into a continuing relationship?

The WITNESS. Yes. I can think of two in particular that did.

Senator SPECTER. What was the nature of that continuing relationship?

The WITNESS. Well, from these brief encounters the boys would perhaps—I would give different kinds of gifts to them, go swimming——

Senator SPECTER. Those two relationships that you described, how many times did you see each of those boys?

The WITNESS. In the one case that led to the arrest, the boy was coming to my house to do some work for which I paid him a certain amount of money.

Senator SPECTER. I am trying to get some idea of how many times you saw them in what you described as a continuing relationship.

The WITNESS. The last boy I referred to came to my house to work and it was strictly work on eight different occasions. We had sex perhaps in the area of a half a dozen times.

Senator SPECTER. So most of the contacts did involve sexual contacts?

The WITNESS. There was another boy in another city in which the relationship went on for about 4 years. I met him when he was first 15 and up through about 19.

Senator SPECTER. And how did you get involved in this sort of a situation?

The WITNESS. Excuse me, sir. I would like to go back to the one question I do not think was finished, the abuse. I think it could perhaps be physical. I suspect some of it was psychological.

Senator SPECTER. Are you talking about the abuse these youngsters sustained prior to the contacts with you?

The WITNESS. Yes.

Senator SPECTER. How do you know about that? Did they tell you about it?

The WITNESS. Yes.

Senator SPECTER. What did they tell you?

The WITNESS. The one boy I am speaking of, his parents had divorced and they were in a continuing custody fight and he, I think, was affected by that. He is the one that I would think was perhaps more psychologically abused than physically.

Senator SPECTER. What advice would you have——

The WITNESS. There is one other reason the boys go out on the street. I think they are also seeking affection, seeking to feel that they are wanted and not neglected.

Senator SPECTER. You think that they start relationships with a man like you because they were not getting sufficient affection at home?

The WITNESS. That could be argued but I think so, to some extent. They certainly would be very reluctant to admit it but I think some definitely were seeking that kind of attention.

Senator SPECTER. From your own experience, how prevalent do you think this experience is, where men like you, in their late forties, early fifties, cruise to pick up young boys for sexual contacts?

The WITNESS. I am afraid that it is very widespread. Again, I am familiar with it personally in five midwestern cities. These areas are well-known. They are not difficult to find. There are many boys out in these spots and there are also many cars that are cruising around. The sheer numbers——

Senator SPECTER. On the occasions when you cruised around and made these pickups, you observed other men doing the same thing?

The WITNESS. Yes.

Senator SPECTER. Are there any young women involved in these incidents?

The WITNESS. Not that I know of and perhaps——

Senator SPECTER. You have not seen any young women being picked up?

The WITNESS. No, sir.

Senator SPECTER. And are there any women involved in picking up young men?

The WITNESS. I heard of that on one occasion from one of the boys but I think that would be rare.

Senator SPECTER. What did you hear about on that occasion?

The WITNESS. That this boy that I had picked up had been picked up by a woman.

Senator SPECTER. And for what reason?

The WITNESS. I assume, I did not go into it, I would assume for sexual purposes also.

Senator SPECTER. But the young boy did not actually say that?

The WITNESS. No.

Senator SPECTER. Do you have children of your own?

The WITNESS. Yes, I have two sons.

Senator SPECTER. How old are they?

The WITNESS. They are 21 and 18—19.

Senator SPECTER. What advice would you give to parents to try to help them avoid having their own children get involved with men like you in these sexual relationships?

The WITNESS. Well, certainly I think the parents ought to know where their children are more than they seem to do. I am afraid—often it is a matter of not really caring. But parents who do care ought to know where their children are at all times. The situation that led to the arrests, the two boys were on spring vacation and were saying—using their mothers back and forth, one saying he was at his friend's house and the other saying he was at his friend's house. They were in fact somewhere else, on the street and in this case at my house.

Senator SPECTER. What advice would you give parents besides knowing where their children are? You talked about the issue of affection and love. How big a part does that play? How can a parent avoid having their children fall into this kind of situation with respect to affection or care and love?

The WITNESS. Everybody needs to be loved and to be touched and to have some kind of feel of being needed and I think there must be a shortage in that area in parent-child relationships.

Senator SPECTER. You have two children of your own, 21 and 18. Did you follow your own advice with respect to your own children? Do you know where they are?

The WITNESS. I did at the time, when I was with them, living in the city. The divorce occurred when one was 7 and the other one was 10.

Senator SPECTER. And after the divorce occurred, did you follow up the relationship with your own children to know where they were?

The WITNESS. Perhaps as much as I could. I do not know. Perhaps not. We were distant—I had moved out of the city some 700 miles away to enter the seminary and so my relationship with them was through telephone calls and mail.

Senator SPECTER. So you cannot even be sure that your own children did not get into situations like this.

The WITNESS. No, I cannot.

Going back to the parents, certainly parents ought to be aware if their child has sums of money, perhaps large sums of money, because I think some men might give much more than $20, $30, $40, or $50. So that these boys could come up with large amounts of unexplained money.

Senator SPECTER. You described in a general way how the youngsters get involved. How did you get involved? What factors led you into this situation?

The WITNESS. Some of it, certainly as I got into that kind of contact, was this attempt, this fathering attempt on my part or at least some kind of big brother relationship.

Senator SPECTER. Are you saying you made these contacts because you wanted to have a father-child relationship?

The WITNESS. There was an element of that, yes, sir.

Senator SPECTER. That was not the dominant element, as you described. The dominant element that I hear you describing is the sexual motivation on your part, wasn't it?

The WITNESS. I do not want to be dishonest with myself or with you or with the committee. I think the sexual element was very large. But I think in my case the contact with them, the talking with them, the contact both in a physical way and a talking way

was more important. The sex came always or almost always but——

Senator SPECTER. Well, wouldn't it have been possible for you to have that kind of relationship with youngsters without having the sexual involvement?

The WITNESS. Yes, sir, and so I think perhaps—certainly both were important. I am trying to draw—trying to illustrate which was more important.

Senator SPECTER. What advice would you give to other 50-year-old men on how to avoid getting themselves into a mess like you got yourself in?

The WITNESS. Let me refer to the type of men, first of all. They are very, as I see it, very similar to me. An awful lot come from what I would call professional, helping kinds of occupations. But it does cross all socioeconomic boundaries.

Senator SPECTER. Did you make any of these contacts as a result of the relationship you had with students when you were a teacher?

The WITNESS. No, sir.

Senator SPECTER. Did you make any contacts as a result of the relationship you had with people when you were a minister?

The WITNESS. No, sir.

Senator SPECTER. When you were a teacher and a minister, you were in a profession of helping people. Wasn't that sufficient for that need that you say you felt you had?

The WITNESS. No, sir, because somehow I drew a line that sex would not enter those relationships.

Senator SPECTER. That was a sound line that you drew. How did you happen to draw that line?

The WITNESS. I really do not know, sir, but somehow I did do that. So that the boys that I did have sex with were always prostitutes or out hustling, wanting to make money.

Senator SPECTER. You said there was a distribution of literature and some of that was obscene literature?

The WITNESS. Yes, sir.

Senator SPECTER. What drugs were involved that you distributed in connection with these guilty pleas? You mentioned that you had distributed drugs to the youngsters.

The WITNESS. Yes, sir. But that perhaps is an exaggeration. Only on one occasion, only on one occasion did I distribute magazines. Only on one occasion did I buy for one of the boys $10 worth of marihuana and that came at his suggestion and my taking up at that. At this point——

Senator SPECTER. So the totality of what you have described involving 11 counts, five boys, on charges of sodomy, drugs, 1 instance of marihuana and distribution of literature, 1 instance, and obscene literature?

The WITNESS. Yes.

Senator SPECTER. Now did you receive only probation or was there any jail sentence involved?

The WITNESS. For those charges which I pled guilty to I received a 10-year sentence which was suspended to 5 years of probation, 5 years of probation and also a provision that I would do 200 hours of voluntary work with some social agency and also that I would con-

tinue therapy and I am in therapy with two psychologists at this time.

Senator SPECTER. Do you think you should have gone to jail for what you did?

The WITNESS. No, I do not, of course. But I—I would see no useful purpose that that would serve.

Senator SPECTER. Do you think if a man in your situation who pleaded guilty to sodomy charges with five young men had gone to jail, that that would be an example to other men similarly situated not engage in that conduct?

The WITNESS. Again I speak for my own biased viewpoints. I do not think so. I do not think the danger of—or the risks that were involved in a potential jail sentence altered my behavior at all.

Senator SPECTER. If you were to repeat such offenses, do you think you would then increase the risk of going to jail?

The WITNESS. I am quite sure that I would.

Senator SPECTER. Does the possibility of going to jail if you violate your probation motivate your conduct in any way or deter you from having future sexual contacts with young men?

The WITNESS. I think it does, yes.

Senator SPECTER. So that a jail sentence would be a deterrent—the possibility of a jail sentence would be a deterrent?

The WITNESS. I guess there is that possibility, yes. In my case I think the punishment that I have gotten already——

Senator SPECTER. What punishment is that?

The WITNESS. Well, in effect I have lost my profession as a pastor, something that I enjoyed doing, something that I wanted to do, something that I think I was very good at.

Senator SPECTER. Did you lose the job you held?

The WITNESS. I resigned very quickly, yes, and I see no—I see at this time no possibility of ever serving a church again.

Senator SPECTER. What other punishment did you sustain?

The WITNESS. A tremendous feeling of guilt for what I have done now. When I was doing it I was rationalizing my behavior, thinking I was helping when I was not.

Senator SPECTER. Aren't you still rationalizing your behavior in your testimony here today?

The WITNESS. I guess we all do.

Senator SPECTER. Let us talk about you.

The WITNESS. Yes, sir.

Senator SPECTER. You are the witness at the moment. Aren't you still rationalizing your behavior with your comments about the contacts with the young men, to help them?

The WITNESS. Honestly, I guess I would be, yes. Excuse me. To go on with the punishment, the guilt, the remorse that will always be with me, the element of shame and embarrassment that also went on. My picture——

Senator SPECTER. Do your children know about your conviction?

The WITNESS. Yes, my two sons. The older of the two has accepted that fact fairly well.

Senator SPECTER. How about the younger one?

The WITNESS. The younger one is having great difficulty with it. He is now 19. Yes, there is that loss. Also the tremendous embar-

rassment that I feel, unable to face some of the people in the church that I was serving.

Senator SPECTER. How were you caught? What factors led to your arrest and prosecution?

The WITNESS. Two of the boys, one of them whom I did have a sexual relationship with, saw me in the cruising area one Sunday night. They were about ready to begin spring break. He saw me, motioned me to stop and I did and he asked me if he and his friend could come and stay at my house that night. They needed a place to stay. They did not want to go home that night. I did agree to it. I picked them up at midnight and they came to my house and stayed overnight that night. That was a Sunday night. The next Friday night this one boy that I had had the sexual relationship with called me again in the evening, asked if he and his friend could come and stay the night again Friday night and I said yes and I went down and picked them up. Then on the next night, Saturday night, they came to my front door and knocked and asked if they could come in and stay the night again and again I said yes and they stayed overnight. On none of those occasions did sex occur. They simply stayed overnight, simply to get away from home, I think, just—you know, a spring vacation lark. They stayed up until about 1 o'clock on Sunday and at that point the mother of the one boy and her husband came to my door. We had met before. She knew that he was coming to my house to work, so she had a good suspicion as to where he might be. She came to my door and took the two boys back and I assume she contacted the police. The arrest was made that Tuesday, the following Tuesday.

Senator SPECTER. Did those two boys testify against you?

The WITNESS. They made statements.

Senator SPECTER. Did you have a preliminary hearing?

The WITNESS. Yes.

Senator SPECTER. Did they testify against you?

The WITNESS. I never saw them again. There was no physical presence.

Senator SPECTER. You say you only had sex with one of the boys?

The WITNESS. Yes, sir.

Senator SPECTER. So what testimony could the other one have given against you?

The WITNESS. He claimed that I did have sex with him on each of those three occasions.

Senator SPECTER. Did you enter a guilty plea to that?

The WITNESS. We pleaded guilty to that.

Senator SPECTER. But you were not guilty?

The WITNESS. No, sir.

Senator SPECTER. Why did you plead guilty?

The WITNESS. On the advice of my lawyer. I certainly was guilty on the other 11 charges and in effect—guilty to other charges also and therefore we knew—or it was my lawyer's advice that if it was brought to trial, I certainly would be convicted on all counts. So we entered an Alfred, North Carolina plea.

Senator SPECTER. *Alfred* v. *North Carolina*?

The WITNESS. Yes.

Senator SPECTER. How familiar are you with the *Alfred* v. *North Carolina* case?

The WITNESS. Not at all. But I understand not admitting guilt—most likely I would be convicted.

Senator SPECTER. How did the other five boys get involved? How did the police find out about them? There are two that you have described. You say five were involved. How did the police find out about the other three boys?

The WITNESS. There were a number of photographs. I did take Polaroid pictures of some so at least one of the other boys was recognized by the photographs.

Senator SPECTER. And the police then contacted him?

The WITNESS. Yes.

Senator SPECTER. And he testified about having had sex with you?

The WITNESS. Yes.

Senator SPECTER. And the Polaroid picture you took of the boy——

The WITNESS. Yes, sir.

Senator SPECTER. Was he nude?

The WITNESS. Yes, sir.

Senator SPECTER. Did you have other pictures of juveniles or children in a nude state?

The WITNESS. Yes; I did. Perhaps about, and I am guessing, perhaps about 20 Polaroids of perhaps 6 or 7 boys, perhaps 30 photographs and then 1 larger collection of the boy that I had the 4-year relationship with, quite a number.

Senator SPECTER. Also nude photographs?

The WITNESS. Yes, sir, and then in addition, I had a large collection of commercial kind of pornography, books and magazines and these were always in the subject area of young males, both the picture magazines and also the books.

Senator SPECTER. Were the parents of these children, who were the victims, satisfied with your getting probation instead of going to jail?

The WITNESS. I would certainly think no. I am just guessing.

Senator SPECTER. Were any of those parents present at the time you were sentenced?

The WITNESS. No, sir.

Senator SPECTER. What advice would you have generally as to how we can avoid this kind of a problem in our society?

The WITNESS. First of all, I would say that this is my prime reason for my agreeing to come to testify before this committee and I thank you and the committee for that opportunity. One suggestion that I think is very important is that something should also be done with the juvenile offenders or the children who are victims or whatever, whichever——

Senator SPECTER. What happened to the juveniles who were victims in your situation?

The WITNESS. In my case they made their statements, they gave their testimony and nothing——

Senator SPECTER. Did anything else happen to them?

The WITNESS. As far as I know nothing else happened to them.

Senator SPECTER. Do you think they should be punished?

The WITNESS. No; I am not saying that.

Senator SPECTER. What should be done with them?

The WITNESS. I think they need to be brought into supervision of some kind, perhaps enforced by the courts, some kind of supervision because I think they have some problems or they would not be on the street. They need help, and right now, as I see it, they are released. The adults are punished in one way or another and both sides need to be helped.

Senator SPECTER. What kind of supervision can we give them in a society which is finding it so hard to pay the costs of government generally? How can we really function? Here in Washington the talk of the town is the budget deficit and the cost of government and you describe a problem which is enormous, with many, many juveniles involved. How can the Government undertake that kind of supervision? What do you suggest?

The WITNESS. It would be costly, I realize, but I think it is imperative or the problem will go on and on as it has gone on and on.

Senator SPECTER. But isn't it basically, as you described earlier, a parental responsibility?

The WITNESS. Yes. But what if the parents really do not care about their children? Then who is responsible?

Senator SPECTER. Will there be a punishment or a sanction for parents who allow their children to get into these situations?

The WITNESS. That might be helpful—that might be helpful.

Senator SPECTER. What kind of sanction would you impose on the parents?

The WITNESS. I could not say but——

Senator SPECTER. Maybe the parents need supervision.

The WITNESS. Perhaps.

Senator SPECTER. And who is going to supervise them?

The WITNESS. I do not know, sir.

Senator SPECTER. Maybe the parents should go to jail.

The WITNESS. I do not think——

Senator SPECTER. You do not like——

The WITNESS. I do not like jail.

Senator SPECTER. Maybe the fact that you do not like jail is a suggestion that jail could be a good deterrent.

The WITNESS. Perhaps.

Senator SPECTER. Are you succeeding in your therapy?

The WITNESS. Yes, sir.

Senator SPECTER. How long have you been under the therapy?

The WITNESS. About a year now.

Senator SPECTER. And would you mind describing in a general way what the therapy consists of? Is it psychiatric therapy?

The WITNESS. With two clinical psychologists.

Senator SPECTER. How often do you go?

The WITNESS. In the past year I have been going to one of the psychologists once a week, on a once-a-week basis and the other——

Senator SPECTER. It is not very much, is it? And the other one?

The WITNESS. Once every 2 weeks.

Senator SPECTER. Is that enough to give you the kind of supervision or assistance you feel you need?

The WITNESS. Well, I think I have made tremendous progress and so I would say yes.

Senator SPECTER. And you attribute that to the psychological-clinical counseling?

The WITNESS. Yes, sir, I do. The one is a behavioralist kind of person right now and besides the sessions I am also taking aversion shock treatment.

Senator SPECTER. What does that consist of, aversion shock treatment?

The WITNESS. The doctor has a little machine that I can strap to my fingertips or wrist and then I am doing it on my own and I can——

Senator SPECTER. How long do you do that for each day?

The WITNESS. Thirty minutes per session.

Senator SPECTER. What does that do for you or to you?

The WITNESS. Well, the process is to fantasize some kind of sexual image and then shock myself and then move to some other nonsexual pleasant thought and then repeat the process, a process of change——

Senator SPECTER. Do you shock yourself when you change your sexual fantasies to a nonsexual fantasy?

The WITNESS. In between. The sexual fantasy, then the shock and then the nonsexual image and then move back into another——

Senator SPECTER. What is that supposed to do for you?

The WITNESS. It is supposed to remove that kind of thought, make it an unpleasant kind of instinctive reaction.

Senator SPECTER. There is an old Russian story about an old man stuck in a corner and not thinking of a big black bear.

The WITNESS. I had not heard of it.

Senator SPECTER. How does this shock therapy work for you? Is it succeeding?

The WITNESS. Yes. However, I have been into that part only for about a month.

Senator SPECTER. How are you coping, if I may ask, to your own emotional problems and your own need for love and touching and sex?

The WITNESS. I am perhaps one question behind. I am thinking of some illustration to indicate how it is working for me. Since September of last—1981, I have been dating a woman. My sexual relationship with her is a good one. Part of the reason I am sure why I got into this habit was a sexual dysfunction that showed up in my marriage that helped cause my marriage to end in failure. I have never experienced sex as satisfactory with a woman until the past few months and now it is satisfactory and enjoyable and I attribute that to the process of training out the bad habits and moving into a better conduct.

Senator SPECTER. Well, that certainly sounds like a step forward: So you think in that manner you have passed the instincts and feelings which led you to the sexual contact with the teenagers?

The WITNESS. Yes, sir, I think I do. Rightly or wrongly I see a great—a commonality between alcoholism and homosexuality.

Senator SPECTER. Did you have a drinking problem?

The WITNESS. No, I did not but——

Senator SPECTER. What is the basis for your talking about the connection between alcoholism and sexual problems?

The WITNESS. I think both arise out of a feeling of low self-esteem, an attempt in some way to bring about my own death or self-destruction unconsciously. It is something you get into and know it is wrong. You want to get out of the behavior. You make resolutions that you can do it. You try to do it on your own and you cannot do it. There is, I think, that similarity between the two.

Senator SPECTER. You have described to us your activities in several cities, Cincinnati, Indianapolis, Louisville, Cleveland. Did any of your conduct cross State lines with youngsters?

The WITNESS. Yes, sir.

Senator SPECTER. Do you think that it would be helpful to have Federal legislation in this field to deal with the kind of conduct you described where a man in his late forties or early fifties picks up juveniles and has a sexual relationship?

The WITNESS. I suspect that it would be helpful, yes.

Senator SPECTER. Do you think there is any place at all for the punishment, incarceration or jailing for men like you who engage in this kind of conduct?

The WITNESS. Again I do not see that. I do not see jail as being helpful in any way. You would throw a person who was not a criminal type into a setting where I understand homosexuality is very heavy.

Senator SPECTER. This is your first offense. You had never been convicted of anything before?

The WITNESS. Yes, sir.

Senator SPECTER. And what you are saying is no jail for a first offender?

The WITNESS. Yes, I am.

Senator SPECTER. How about a second offender?

The WITNESS. I think I would rather pass on that question because I do not think I am qualified to say.

Senator SPECTER. How about a third offender?

The WITNESS. I suppose at some point jail might be the only answer.

Senator SPECTER. What is that point?

The WITNESS. I do not know, Senator.

Senator SPECTER. How——

The WITNESS. Excuse me, sir. Going back, you know, going back to supervision, that set me back to that thought. Yes, it would be expensive, a tremendous problem because it is so widespread. But in one way or another the money is going to be spent, either on incarceration or—in some more helpful way—perhaps the same amount of money might be spent—certainly a large amount of money.

Senator SPECTER. How do you think people feel when they read in the newspapers a case like yours, a 50-year-old teacher-minister who is convicted of having sexual relationships with five young boys and who walks out on probation? What do you think the response of the community is when they read about a case like yours?

The WITNESS. I think that the general community would be very angry. I have not personally experienced any direct acts of hostility but I would certainly think that the general community would be angry.

Senator SPECTER. And what do you think that the community reaction would be when they read of a case like yours, a 50-year-old ex-minister, ex-teacher, pleads guilty to sexual involvement with five youngsters and he gets a jail sentence? What do you think the community reaction would be?

The WITNESS. I think the common remark would be "he deserves that."

Senator SPECTER. What do you think the reaction would be if another 50-year-old who was having sexual relationships with teenagers saw your case, that when you were convicted you went to jail? How do you think that would affect him?

The WITNESS. It would probably scare him for a short period of time or he might then stop behaving in that way. But I would suspect that down the road a few months later those fears would be out of his head.

Senator SPECTER. Suppose he read about another case where a 50-year-old man had a sexual relationship with teenagers and went to jail? Suppose it was his expectation that he would go to jail if he had sexual relationships with teenagers?

The WITNESS. I think the same process, the stop and go activity, would continue. Again, comparing it to alcoholism——

Senator SPECTER. Supposing you had read that?

The WITNESS. Where they had gone on the wagon and off the wagon——

Senator SPECTER. Suppose you had read in the middle of your own exploits that a man in a similar situation was convicted of having had sodomy with teenagers and went to jail for 10 years? How would that affect you?

The WITNESS. That is what I am basing my answer on. It certainly would have scared me off the streets for a while and I suspect that it did happen over the years in which I was involved.

Senator SPECTER. Did you ever think about what would happen to you if you were convicted?

The WITNESS. No; I did not.

Senator SPECTER. Did you have the general feeling that when people go to court on offenses like this that they end up with some minor punishment like probation?

The WITNESS. For me—I never thought that I would be caught. The thought of being apprehended never was such that it would cause me to stop doing what I was doing. So I do not know what kind of deterrent it could have, quite frankly.

Senator SPECTER. Did you ever read about anybody having sexual relations with teenagers being caught?

The WITNESS. Yes.

Senator SPECTER. Didn't that give you the idea that you might get caught?

The WITNESS. No.

Senator SPECTER. Why did you think you would be different?

The WITNESS. Because I am smarter.

Senator SPECTER. Are you?

The WITNESS. No; you know, perhaps another important point that I think should be made is that the adults who are involved in that activity really fear—they have this dark secret that they cannot tell anybody because they know they will be so fully con-

demned and lose family and jobs and everything. So they cannot tell anybody. They cannot seek help. They are living in fear but they still—or we still go on and do that. What I would like to be made known in some way, to be able to tell these adult offenders like myself, that they can be helped and they can change. The matter of taking a risk and seeking help because they cannot do it on their own——

Senator SPECTER. So a clear-cut method you would give as a result of your own experience, anybody that is in a position like yours, would be that if they were to seek psychological or psychiatric help, that it is possible to conquer these instincts on having sexual relations with teenagers and you can straighten yourself out?

The WITNESS. I really believe that. It is a very difficult thing to do. Therefore it cannot be done on your own. You do need professional help and it must begin with a basic decision made by that person that I want to change, I really want to change. That has to come and then the competent professional help. It can be done.

Senator SPECTER. And with respect to the juveniles involved, your advice to the parents would be to know where your children are?

The WITNESS. Yes, watch out for large amounts of money and love and hug——

Senator SPECTER. Watch out for where your children are and watch out for large amounts of money that come from unexplained sources and give them love and attention so that they do not look for other older men to have relationships with?

The WITNESS. Yes, sir. I do not want to sound——

Senator SPECTER. But as to any criminal sanction, you stopped short. You do not think the law ought to get tough, at least for the first offender?

The WITNESS. Quite frankly, I am thankful for my own arrest. That might seem strange but it was one factor that did start the process of change, yes, it certainly did. As the police carted out the large amount of pornographic material from my basement, I felt a sense of relief. I was glad that it was finally gone, out of my house. I had wanted to throw it away many times before but was never able to do it.

Senator SPECTER. So you were appreciative of the arrest?

The WITNESS. In a way yes, yes, sir. Despite the fact that——

Senator SPECTER. But the arrest is as far as you would go, at least for a first offender. But you think if you have a multioffender, second, or third time, there is a point where imprisonment is the only recourse?

The WITNESS. Certainly—yes. I would not know where to draw that line. Certainly another punishment that I have received, I have been convicted—I am a convicted felon with all that means as far as my future.

Senator SPECTER. You do know if you get in trouble again, if you have a sexual relationship with a young boy, the probability is high, if not certain, that you will go to jail?

The WITNESS. Yes, sir.

Senator SPECTER. And that has some significant impact on you?

The WITNESS. Yes, it does.

Senator SPECTER. Do you think that will keep you on the straight and narrow, at least in part?

The WITNESS. I think.

Senator SPECTER. You are not sure?

The WITNESS. I am not sure because I think the ultimate hope with me or other persons like myself is to change the habit, not the fear of punishment but the changing of the habit is the——

Senator SPECTER. Does not the fear of punishment have some significant impact on changing a habit?

The WITNESS. I think so and that is illustrated by the shock adversion. Still, the sexual drive in the human is so strong that it has to be met in some socially acceptable way or nonacceptable way, and, it will be.

Senator SPECTER. Well, we certainly appreciate your coming here. We realize it was not easy for you to step into the public and to admit what you have done. But I think that there is a very important purpose to be served here in acquainting people with the fact that there are men who are responsible, ministers, teachers, who have their own personal problems and sexual outlets with teenagers and that there are answers in terms of psychiatric, psychological assistance for the older man and things that can be done for the teenagers to cope with the problem. I think you and I part company on the role of the criminal process, however. That was explained by the difference in our vantage points.

The WITNESS. Certainly the law enforcement agencies, this is perhaps a judgment on my part, ought to really be concerned about what happens to the boys who are involved in these situations and attempt to get at the roots of the problem.

Senator SPECTER. I think they are to some extent. I would appreciate it if you would give some thouqht to the questions I have raised with you about the aspect of deterrence, about what impact you think there would be on you had you known that this kind of conduct would have led to jail and what kind of impact do you think there would be on other people if they thought they would go to jail and what impact there is on other people. I have seen the newspaper stories about your case and the newspaper stories recount that you got probation and in a sense that is an open invitation to others in a similar situation to see if he did it and got away with it, there is one free bite at the apple, and there are cases too where people are repeat offenders and they go on probation and that kind of a permissive response has, in my view, an effect of promoting that kind of conduct. It is fine to talk about supervision for you or for the youngsters but that is a very difficult thing to do as widespread as this kind of problem is.

So we have to look at other sanctions or other aspects of the law to motivate human contact to deal with these people.

Anything you want to add?

The WITNESS. No, sir. Again, I thank the committee for allowing me to come.

Senator SPECTER. The committee thanks you for giving us the assistance you have given us today.

We welcome next the Deputy Assistant Attorney General for the Criminal Division of the U.S. Department of Justice, Mark Richard, to the hearing today. We appreciate your being with us to tes-

tify about the enforcement of the child pornography laws and the possibility of modifications in existing statutes with respect to pecuniary interest requirements and the various evidentiary problems that are associated with the kinds of problems.

Mr. Richard, we welcome you here.

Would you identify yourself?

Mr. CARO. I am Dana Caro, Deputy Assistant Director of the Organized Crime Division of the FBI.

Senator SPECTER. We welcome you here, Director Caro.

Mr. Richard, we have your statement which will be made a part of the record in full. Our practice is you summarize the statement, leaving the maximum amount of time for questions.

STATEMENTS OF A PANEL CONSISTING OF: MARK RICHARD, DEPUTY ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION, U.S. DEPARTMENT OF JUSTICE; AND DANA E. CARO, DEPUTY ASSISTANT DIRECTOR, ORGANIZED CRIME DIVISION, FEDERAL BUREAU OF INVESTIGATION

Mr. RICHARD. Thank you. It is a pleasure to be here to testify on a very crucial subject and that is production and distribution of material depicting minors engaged in sexually explicit conduct and violations of other pertinent statutes dealing with child pornography.

Prior to May of 1977, it had been Department of Justice policy to place priority upon obscenity prosecutions involving large-scale distributors engaged in multi-State operations and cases in which there is evidence of involvement by known organized crime figures.

However, becoming aware of an increasing problem involving the distribution of obscene material depicting children, the Department of Justice added child pornography to the categories of priority prosecution in the obscenity area.

We have previously supplied to you, Mr. Chairman, in November 1981 statistical information regarding prosecutions in this area and I would like briefly to update the information provided at that time.

Since May of 1977, 47 persons have been convicted, none acquitted, and charges against three are still pending because the defendants are foreign nationals who cannot be extradited under any available treaties.

Senator SPECTER. Mr. Richard, before you leave that, do you know the sentences imposed on those that have been convicted?

Mr. RICHARD. I have them available and I can make them available to you.

Senator SPECTER. Can you give me a general range? Were there jail sentences?

Mr. RICHARD. That is the rule rather than the exception. Quite candidly, my sense is that they range from 5 years to 8 years with some going as high as 20, 25 years. I can supply specific figures to the committee.

Senator SPECTER. We would be interested in receiving them.

Mr. RICHARD. Certainly.

[The requested material and answers to written questions from Senator Specter follow:]

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., November 5, 1981.

Hon. ARLEN SPECTER,
Chairman, Subcommittee on Juvenile Justice,
Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter to the Attorney General dated October 30, 1981, requesting information concerning enforcement of Public Law 95-225.

Seventeen defendants have been indicted under 18 U.S.C. 2251-2253.[1] Ten defendants were convicted under these statutory provisions. Two defendants were convicted under other pre-existing obscenity statutes.[2] No defendants were acquitted. As of the present date cases involving four defendants are pending.

The above figures do not reflect the full extent of the Department's enforcement program in the child pornography area. The Department initiated a program of priority emphasis in this area in May of 1977 before Public Law 95-225 was enacted. Since that time forty-three defendants have been indicated under all available statutues including 18 U.S.C. 2251-2253. Thirty-four defendants have been convicted, no defendants acquitted, and cases involving eight defendants are pending as of the present date. The use of 18 U.S.C. 1461-1465 has been mandated in a number of child pornography cases because 18 U.S.C. 2251-2253 is limited to production and distribution for commercial purposes, and many of the distributors of this material are involved in consensual exchange of material, which is violative of the pre-existing obscenity statutes, rather than commercial distribution.

Data concerning prosecutions under 18 U.S.C. 2423 is obtained from monthly reports by United States Attorneys to the Department. However, this data is reported by the United States Attorneys only by reference to the principal statute involved in the case. Therefore, the following data concerning prosecutions under 18 U.S.C. 2423 is limited to only those cases where 18 U.S.C. 2423 was the sole or principal violation. With this limitation in mind, we can report that during fiscal years 1978 through 1980, charges were filed against fourteen defendants under 18 U.S.C. 2423, eight defendants were convicted, one defendant was acquitted and charges against one defendant were dismissed. As explained above, there may have been additional charges filed and dispositions obtained under 18 U.S.C. 2423 which were reported by United States Attorneys under other statutes and which, therefore, have not been picked up in our statistical reporting system. Data for fiscal year 1981 is not yet available but should be available in the near future if the Subcommittee desires to have it.

The Federal Bureau of Investigation has investigative jurisdiction of violations of 18 U.S.C. 2423, and the Bureau shares investigative jurisdiction with the Postal Service for violations of 18 U.S.C. 2251-2253. The Bureau is presently compiling information concerning investigations in response to your inquiry, and this information will be forwarded as soon as it is available. You may wish to contact the Postal Service with regard to child pornography investigations that have been conducted by that agency.

I trust this satisfies your inquiry.

Sincerely,

ROBERT A. MCCONNELL,
Assistant Attorney General.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., December 21, 1981

Hon. ARLEN SPECTER,
Chairman, Subcommittee on Juvenile Justice, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further response to your letter to the Attorney General dated October 30, 1981, requesting information concerning enforcement of Public Law 95-225. By letter dated November 5, 1981, you were provided certain information, and you were advised that the FBI was in the process of compiling information in response to your inquiry and that this information would be forwarded as soon as it was available.

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[1] One defendant committed suicide before trial.

[2] Some of the cases brought under 18 U.S.C. 2251-2253 included charges under 18 U.S.C. 1461, 1462 or 1465 as well.

In order to respond to your request, on November 13, 1981, all FBI field offices were instructed to advise FBI Headquarters of the total number of investigations conducted, complaints and informations filed, indictments and convictions obtained under Title 18 U.S.C. Sections 2251-2253 (Sexual Exploitation of Children) and 2423 (Interstate Transportation of Minors for Prostitution or Prohibited Sexual Conduct) since February, 1978.

The results of this survey are as follows: Cases investigated, 482; complaints, 8; informations, 4; indictments, 33; and convictions, 23.

If I can be of any further assistance in this inquiry, please do not hesitate to call upon me.

Sincerely,

ROBERT A. MCCONNELL,
Assistant Attorney General.

U.S. DEPARTMENT OF JUSTICE,
CRIMINAL DIVISION,
Washington, D.C., April 29, 1982.

Hon. ARLEN SPECTER,
Chairman, Subcommittee on Juvenile Justice, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: At the hearing on April 1, 1982, concerning child pornography and other matters, you requested information concerning sentences that have been received by those convicted of distributing child pornography. This letter sets forth first the sentences received by individuals convicted under all available statutes (43) and then breaks out of the total those cases involving convictions under 18 U.S.C. 2252 (14).

The greatest number of defendants, six, were sentenced to five years imprisonment. Four defendants were sentences to three years imprisonment, three defendants were sentenced to nine years imprisonment, two defendants were sentenced to four years imprisonment, two defendants received suspended sentences and were fined $1,500, two defendants received suspended sentences and were fined $500, two defendants were sentenced pursuant to the Youth Corrections Act,[1] and two defendants were sentenced pursuant to 18 U.S.C. 4205(c). One of these was ordered to receive counseling and the other is still under study. The remaining sentences each pertain to one defendant: 15 years imprisonment and $20,000 fine, 12 years imprisonment and $50,000 fine, 10 years imprisonment and $10,000 fine, 10 years imprisonment, eight years imprisonment, seven years imprisonment, four years imprisonment, and $50,000 fine, three years imprisonment and $15,000 fine, three years imprisonment and $5,000 fine, two years imprisonment, 18 months imprisonment and $5,000 fine, 18 months imprisonment with six months suspended, six months in a halfway house, one year with all but 90 days suspended and a $1,000 fine, two months imprisonment, 45 days imprisonment on weekends, and one suspended sentence. Two corporate defendants were fined $15,000 and $5,000 respectively. One defendant committed suicide before sentence could be imposed.

With regard to convictions under 18 U.S.C. 2252, three defendants were sentenced to five years imprisonment and two defendants were sentenced to four years imprisonment. The remaining sentences each pertain to one defendant: 12 years imprisonment and $50,000 fine, 10 years imprisonment, nine years imprisonment, eight years imprisonment, four years imprisonment and $50,000 fine, three years imprisonment, 18 months imprisonment with six months suspended, six months in a halfway house, and one defendant sentenced pursuant to the Youth Corrections Act.[2]

We have also learned of one additional case not included within the statistics presented at the time of the hearing. This case involves three defendants who were convicted of violating 18 U.S.C. 2252. One defendant was sentenced to 20 years impris-

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[1] One defendant was sentenced to the custody of the Attorney General for treatment and supervision pursuant to 18 U.S.C. 5010(b); a study pursuant to 18 U.S.C. 5010(e) was ordered with regard to the other defendant.

[2] A study has been ordered pursuant to 18 U.S.C. 5010(e).

onment and fined $25,000, the second defendant was sentenced to two years imprisonment and the third defendant was sentenced to six to 18 months imprisonment.

I trust this satisfies your inquiry.

Sincerely,

D. LOWELL JENSEN,
Assistant Attorney General,
Criminal Division.

BY: MARK RICHARD,
Deputy Assistant Attorney General.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., June 15, 1982.

Hon. ARLEN SPECTER,
Chairman, Subcommittee on Juvenile Justice, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to the Subcommittee's letter of April 12, 1982 requesting written answers to certain questions to supplement the record of the April 1, 1982 hearing on Exploited and Missing Children.

Question. I understand that the Department of Justice is in favor of establishing an unidentified dead file but wishes to study the pilot project in Colorado for an additional period of time.

(a) How long do you intend to study this project?

Answer. In June, 1981, the National Crime Information Center (NCIC) Advisory Policy Board accepted an offer of the State of Colorado to test the unidentified dead file concept for a period of two years. In August, 1981, the Colorado Bureau of Identification (CBI) began receiving unidentified dead reports from criminal justice agencies nationwide. The pilot project will terminate in July, 1983, with final study evaluations being completed in October, 1983.

(b) Exactly what do you hope to accomplish by this additional study?

Answer. The pilot project is to determine the need, feasibility, utilization, cost projections and degree of automation that would yield the most efficient method of creating and maintaining a national unidentified dead file. Additionally, the study will aid in determining the degree of data standardization that would be necessary to implement a file of this type on a national basis.

(c) Does the Department believe that the procedures used in the Colorado project are the most effective means of identifying dead bodies?

Answer. The Colorado project incorporates identification data which would provide an inquirer with possible lead information. Until completion of the pilot project, it would be somewhat presumptuous to state that the Colorado project is the most effective. It should be pointed out that the Colorado file is an index/pointer file only and does not, at present, contain complete reports, photographs, location of the remains, etc. The file does contain a detailed description of the remains including clothing, jewelry, etc. Its value will depend on the completeness of the data submitted and on the degree of participation. It is anticipated that additional automation of data in the file would perhaps be necessitated. The degree of automation will be determined upon completion of the pilot.

(d) Does the Colorado project rely upon autopsy information to identity these bodies or upon teletype information submitted by law enforcement agencies?

Answer. The Colorado project receives an unidentified dead report which is completed by an agency describing the unidentified remains. This report would not always include autopsy information, but could if such information was available.

(e) Isn't autopsy information much more reliable?

Answer. An autopsy is generally performed on a dead body to determine the cause of death. However, information resulting from an autopsy may provide more precise physical characteristics of the remains. It should be emphasized that even though precise autopsy information may assist in identification of a dead body, actual physical evidence found by the investigator, i.e., personal articles, clothing, etc., may facilitate a more expeditious identification of the deceased.

(f) Has the Department consulted the California State Department of Justice, who has administered their own identification system since 1979?

Answer. Yes. In addition to Colorado, the states of California, New Jersey and Arizona have been contacted with reference to their systems utilized for identifying unknown deceased. Additionally the Canadian Police Information Center (CPIC), the United States Army and other professional forensic pathologists and odontologists have furnished views and provided input to the proposal of establishing a national unidentified dead file.

Question. Does the Department feel that missing children are really a domestic problem more appropriately handled by local law enforcement?

Answer. In our view, the investigation of missing children complaints is primarily the responsibility of local law enforcement agencies. Given the large number of youngsters that run away from home each year, the routine involvement of the FBI in every reported disappearance would seriously diminish its effectiveness in genuine kidnaping episodes. As a matter of policy, however, every reported disappearance, in which the circumstances indicate that an actual abduction has taken place, is afforded an immediate preliminary investigation to determine if a full investigation, under the Federal kidnaping statute, is warranted.

Question. What specific role does the Department of Justice envision for the FBI in the problem of missing children?

Answer. As indicated in our previous response, the FBI will undertake an immediate preliminary investigation of a missing child complaint, if the child is missing under circumstances indicating that an actual abduction has taken place. With regard to children of very tender years, however, we believe that, in many cases, an abduction may be assumed, so as to warrant an immediate preliminary investigation by the FBI. In addition, the FBI will continue to operate the NCIC missing person file to assist state law enforcement agencies in their investigations of missing and runaway children.

Question. If a young girl, say six years old, is abducted and is missing for several days, should the FBI take an active role in the investigation?

Answer. In any abduction situation, regardless of the age of the victim, the FBI will undertake an immediate preliminary investigation to determine if a full investigation, under the Federal kidnaping statute, is warranted. Furthermore, in any abduction situation, the failure to release the victim within 24 hours creates a rebuttable presumption, under the Federal kidnaping statute, that the victim has been transported in commerce. In such a situation, a full FBI kidnaping investigation may be undertaken.

Question. For each individual convicted under 18 U.S.C. 2251-2253 and 2422 through 2423, please provide the sentence imposed.

Answer. By letter dated April 29, 1982, the Criminal Division furnished the Subcommittee with information concerning sentences imposed on individuals convicted of distributing child pornography. This information includes sentences for conviction under 18 U.S.C. § 2252 and other available statutes. this data, however, does not include sentences imposed on individuals convicted under 18 U.S.C. §§ 2422 and 2423. We are attempting to retrieve such data, and we will furnish the Subcommittee with a report of the results of our search.

Question. The FBI has stated that it has initiated 482 investigations involving violations of 18 U.S.C. §§ 2251-2253 and the amended section of title 18 U.S.C. § 2423 and that as a result of these investigations twenty-three individuals have been convicted in United States District Court. If more funds were allocated to such investigations, is it likely that a greater number of individuals would have been prosecuted?

Answer. We have been informed by the FBI that since enactment of 18 U.S.C. §§ 2251-2253 and the amendment of 18 U.S.C. § 2423, the Bureau has developed expertise in the investigation of child pornography and related offenses, including the development of a profile of persons involved in such activity and an understanding of their clandestine subculture. It is difficult to assess whether more individuals would have been prosecuted if additional funds had been allocated for investigations conducted since enactment of these statutes. It should be noted that within the FBI's current Organized Crime Program, child pornography investigations receive a high priority. With the expertise developed to date regarding the clandestine subculture of violators of these statutes, future efforts should be more successful in the fight against this kind of criminal activity which threatens the children of this country.

I hope the foregoing information will be of some assistance to you.

Sincerely,

ROBERT A. MCCONNELL,
Office of Legislative Affairs.

Mr. RICHARD. Utilization 18 U.S.C. 2252 has been limited by the fact that the statute covers only distribution for commercial purposes, and we have learned that many of the individuals who distribute this material do it by trade or exchange rather

than by sale. Sections 1461 and 1462 however contain no such limitation, and if 18 U.S.C. 2252 is to be rendered more useful as a prosecutive vehicle, the commercial purposes limitation should in my judgment be deleted. Indictments naming 18 of the above-mentioned defendants included charges under 18 U.S.C. 2252; 17 defendants were convicted of this violation, 2 were convicted of other obscenity violations, and a case involving 1 defendant charged under this section, a foreign national, is still pending.

I would like to add beyond my statement that in December of 1981 at least in the ninth circuit there was a challenge to the constitutionality of 2252. The court had no trouble dealing with it and held the statute was not unconstitutionally vague and it affirmed the conviction.

We have been somewhat unsuccessful, however, in developing prosecutions under 2251. Due to the clandestine nature of the child pornography industry, it has proven extremely difficult to develop evidence that an individual was responsible for the production of mailed or shipped material. Only one individual has been indicted under this statute; he subsequently pled guilty to other charges under 2252 and was sentenced to 8 years imprisonment.

We work closely with the Postal Service and the Federal Bureau of Investigation who share investigative jurisdiction for violations of these statutes. We are unaware of any unwillingness on the part of U.S. attorneys to prosecute cases which have been brought directly to their attention. While the FBI, as an in-house investigative agency, has always directly referred these cases to U.S. attorneys, coordination with the Postal Service, until recently, was maintained at the national level; that is, all Postal referrals were cleared through the Criminal Division before being sent out to U.S. attorneys. However, as a result of the considerable expertise that postal inspectors have developed in this area over the past couple of years, we have recently authorized the Postal Service to make direct referrals to U.S. attorneys. In light of the extensive experience which Criminal Division attorneys have developed in the obscenity area, our guidelines in the U.S. attorneys' manual require consultation with Washington before indictments are returned in these cases.

Attorneys in this Division have participated in special training seminars that have been held by both the FBI and the Postal Service dealing with the prosecutions of these cases.

Prosecutions under the White Slave Traffic Act, including 18 U.S.C. 2243, have been traditionally referred by the FBI to U.S. attorneys who have been given a high degree of independence in the handling of these cases. Departmental guidelines provide that prosecution is generally limited to commercial prostitution activities, but that other violations of the statute may be prosecuted after consultation with the Division where the facts warrant. Statistics concerning prosecutions under 18 U.S.C. 2243 were included in our letter to Chairman Specter of November 5, 1981, and we have now obtained additional data for fiscal year 1981. However, I would caution that our data is limited only to those cases where 18 U.S.C. 2423 was the sole or principal violation. Our data collection system picks up the principal violation and frequently this is a collateral violation.

With this limitation in mind, we can report that during fiscal years 1978 through 1981 charges were filed against 21 defendants under 18 U.S.C. 2423, 18 defendants were convicted, 1 defendant was acquitted, and charges against 1 defendant were dismissed.

I previously noted the limitation in the usefulness of 18 U.S.C. 2252 due to the fact that it requires that distribution be for a commercial purpose. I would now like to comment briefly on certain other aspects of these statutes.

First, jurisdiction under 18 U.S.C. 2251 may be predicated either upon the actual mailing or transportation in interstate or foreign commerce of a visual or print medium. However, jurisdiction also may be found where a defendant "knows or has reason to know" that the visual or print medium will be so transported or mailed. While there will be no difficulty in establishing jurisdiction where it can be shown that material, in fact, was mailed or was shipped in interstate or foreign commerce, the alternative basis for jurisdiction will obviously be more difficult to establish if no such mailing or transportation occurs. This is a purely conceptual concern. At the present time we have not had to deal with any problem caused by this jurisdictional language.

Second, and again on a purely conceptual level, 2253 defines sexually explicit conduct as, among other things, "sado-masochistic abuse for the purpose of sexual stimulation." This definition is vague because it fails to specify whose sexual stimulation is intended—the defendant's, the child's or some prospective viewer of the material. This language could, perhaps, be cured by changing the relevant language to "sexually oriented sado-masochistic abuse."

Senator SPECTER. Do you recommend an amendment to that section?

Mr. RICHARD. Certainly not for just that purpose. I think the issue, like I say, is more conceptual at this point. I do not see it as a great concern.

Senator SPECTER. Nobody has made the kind of challenge you have described?

Mr. RICHARD. No, not to my knowledge.

A far greater concern relates to the age of the minor in 2251 and 2252. Some obscene material depicts children who are clearly under the age of 16; however, the age of the child is not so readily apparent in other obscene material. In light of the clandestine fashion in which such obscene films and magazines are produced this will often be extremely difficult. Unless we have such proof of age, we are forced, as a practical matter, to limit our prosecutions to cases where the subjects depicted in the material are clearly younger than 16.

We have been, I might add, using in certain prosecutions expert medical testimony with respect to the age requirement. That, of course, is open to challenge and to some degree poses a problem, especially where the age of the child is seriously in doubt and not obvious from the material that is seized.

With regard to 2423, we have two suggestions. First, jurisdiction over offenses under the statute extends to offenses taking place "within the District of Columbia." This anachronistic provision is not needed since the District of Columbia has its own criminal code.

Second, we believe that the language which was deleted when the statute was amended, should be reinserted. This language did not prove troublesome when it was a part of the statute and appears to reach conduct which is not prostitution or commercially exploited prohibited sexual conduct, such as the taking of a minor across the State line for personal gratification.

For example, Mr. Chairman, the prior witness testified about the interstate transportation of some of his victims. I gather there was an element of prostitutional payment involved but if that element were dropped out and the transportation occurred purely for his own personal gratification, without any payment of money, we would have serious jurisdictional problems under the existing statute.

Senator SPECTER. Do you recommend an amendment to make clear-cut Federal jurisdiction in that kind of situation?

Mr. RICHARD. We think by the addition of the term "debauchery or other immoral practice" we would be able to at least pick up that kind of behavior in an appropriate case. I am not suggesting that all such cases would be appropriate for Federal involvement but at least it would give us a jurisdictional ability.

Senator SPECTER. On that subject, do you think there is an appropriate rule for Federal prosecution in the conduct that you heard from the witness earlier today?

Mr. RICHARD. From listening to his testimony, it appeared to be most appropriately handled at the local level.

Senator SPECTER. Were you satisfied with the disposition at the local level?

Mr. RICHARD. Disposition in terms of sentencing?

Senator SPECTER. Yes.

Mr. RICHARD. By no means. I think especially in cases like this there should be a strong presumption of prison sentences being imposed.

Senator SPECTER. If that individual had been prosecuted in the Federal courts under the kinds of statutes we are referring to, do you think the likelihood would have been high that he would have gotten a jail sentence?

Mr. RICHARD. Mr. Chairman, that varies, obviously, from judge to judge.

Senator SPECTER. Well, you have had a lot of experience with a variety of judges.

Mr. RICHARD. I also have experience as a probation officer and I can tell you I have great personal concerns about attempting to supervise on probation in an adequate fashion individuals of this nature. I think there is a serious risk to the community, to children, and that we are at risk when we place individuals of this nature on probation as a rule. Obviously, cases have to be individualized. I am not familiar with this particular case but certainly it should be rare in my judgment when an individual convicted of such offenses should be placed on probation, notwithstanding the fact that he has no prior felony or criminal record. I am unimpressed with that.

Senator SPECTER. A factor which is of great concern to me, aside from what might happen in the individual case, is what is the impact to others in a like situation. You have a newspaper account

which I have in the file where a man in his late forties is convicted of sexually abusing juveniles and he received a probationary term and there is a sense of outrage in the community. But perhaps more importantly, there are others in the community who are encouraged in similar conduct and continue to permit that kind of conduct with real impugnity whereas if there were jail sentences, the question is as to deterrence.

What is your opinion as to the likelihood of deterrence to others if they read about a tough jail sentence?

Mr. RICHARD. I think, quite candidly, the deterrent factor in all this area has to be considered and I think we have concrete evidence that it is a relevant consideration. I was going to mention that even if there were no prosecutions under these statutes, the mere passage of the act apparently has achieved a deterrent impact. I base that on an incident which occurred during the course of a prosecution out West involving distribution of child pornography where at the time of the sentencing two points were raised. The defendant, in mitigation, was arguing that he was in effect a mere distributor of child pornography and did not have any actual contact with the children or, for that matter, the production or filming of the children being sexually abused. We were able to put on, by way of testimony, an eminent expert in the field of child sex abuse and he testified that, in his judgment, the distribution of child pornography was even more harmful than the very harmful sex acts depicted in the given film and his reasoning I thought was interesting and very provocative because he explained that without the distribution of the films, the act depicted would be an isolated act of sexual violence against the particular child depicted on the film. But that because of the distribution, the pedophiles and pedophilists who seek out these films are encouraged to engage in sexual conduct with children. He further testified that such people frequently suppress their desires because they are aware of society's idea but are encouraged to fulfill their desire by the films because of the apparent approval and instructional content of the films.

Senator SPECTER. What do the films consist of generally, Mr. Richard?

Mr. RICHARD. Well, there are various depictions. Frequently they are single individuals involved in a variety of acts or posturing. More often than not they are children engaging in real or simulated sexual contact with other children or adults. They range—my understanding is they are all gross and obscene under any standard. I am not sure at this point you can generalize too much. Possibly representatives from the investigative agencies might have a better insight into that.

Senator SPECTER. Are any of these cases ever successfully defended on the ground of nonobscenity, within the ambit of the first amendment?

Mr. RICHARD. I am not aware of that, that claim being raised or certainly being successful.

Senator SPECTER. Mr. Caro, would you have any knowledge as to any such defenses on first amendment grounds, that such movies or pictures are in fact not seen?

Mr. CARO. No, sir.

Mr. RICHARD. There was a second point that arose out of the case that I thought also might be of interest and that was during the course of the operation the defendant who was in contact with an undercover FBI agent indicated that he had sold child pornography frequently in the past and that a great deal of profit could be made from child pornography because the new Federal statutes against the sale of child pornography had frightened many dealers out of the business because it was a direct trip to jail.

So hopefully if this is an accurate assessment of the situation, the word has gotten out in the industry: That is an industry that prosecutive authorities both on the Federal and State levels will aggressively move into and that it is a short ticket to trouble for them.

That concludes my summary of my prepared statement. Again, I do appreciate being invited to appear here and I would obviously welcome—try to answer any questions you might have.

[The prepared statement of Mr. Richard follows:]

Prepared Statement of Mark Richard

My name is Mark Richard and I am Deputy Assistant Attorney General in the Criminal Division of the Department of Justice. I am pleased to appear before you here today to discuss the enforcement of 18 U.S.C. 2251 and 2252, which were enacted on February 6, 1978, and deal with the production and distribution of material depicting minors engaging in sexually explicit conduct; 18 U.S.C. 1461 and 1462, which prohibit the mailing and interstate transportation of obscene material as these statutes have been utilized in connection with child pornography; and 18 U.S.C. 2423, the portion of the White Slave Traffic Act which deals with minors.

Prior to May of 1977, it had been Department of Justice policy to place priority upon obscenity prosecutions involving large-scale distributors engaged in multi-state operations and cases in which there is evidence of involvement by known organized crime figures. This policy was dictated by the fact that United States Attorneys are responsible for litigation under literally thousands of criminal and civil statutory provisions, and limited manpower and other resources require United States Attorneys to carefully budget the amount of time and effort that can be devoted to any one subject area. Having become aware by that time of an increasing problem involving the distribution of obscene material depicting children, the Department added child pornography to the categories of priority prosecution in the obscenity area. Some statistical information with regard to these prosecutions was provided to this subcommittee by our letter of November 5, 1981, a copy of which is attached to this statement, in response to Chairman Specter's letter of October 30, 1981, and I would like now to update the information provided at that time.

Since May of 1977, 47 persons have been indicted under all available obscenity statutes for distribution of obscene material

depicting minors, 43 defendants have been convicted, none acquitted, and charges against three are still pending because the defendants are foreign nationals who cannot be extradited under any available treaties.

Utilization of 18 U.S.C. 2252 has been limited by the fact that that statute covers only distribution for commercial purposes, and we have learned that many of the individuals who distribute this material do it by trade or exchange rather than by sale. Sections 1461 and 1462 contain no such limitation, and if 18 U.S.C. 2252 is to be rendered more useful as a prosecutive vehicle, the commercial purposes limitation should be deleted. Indictments naming 18 of the above-mentioned defendants included charges under 18 U.S.C. 2252; 14 defendants were convicted of this violation, two were convicted of other obscenity violations, and a case involving one defendant charged under this section, a foreign national, is still pending. One defendant charged under 18 U.S.C. 2252 committed suicide.

Regrettably, we have been singularly unsuccessful in developing prosecutions under 18 U.S.C. 2251. Due to the clandestine nature of the child pornography industry, it has proven extremely difficult to develop evidence that an individual was responsible for the production of mailed or shipped material. Only one individual has been indicted under 18 U.S.C. 2251; he subsequently pled guilty to other charges under 18 U.S.C. 2252 and was sentenced to eight years imprisonment.

We work closely with the Postal Service and the Federal Bureau of Investigation who share investigative jurisdiction for violations of these statutes, and with the United States Attorneys, and we feel we have developed an effective program for prosecution of these violations. In fact, all child pornography cases that have been brought to our attention by the investigative agencies here in Washington have been prosecuted except for a very few which were factually deficient for one reason or another, and we are unaware of any unwillingness on the part of United States

Attorneys to prosecute cases which have been brought directly to their attention. While the FBI, as an in-house investigative agency, has always directly referred these cases to United States Attorneys, coordination with the Postal Service, until recently, was maintained at the national level; that is, all Postal referrals were cleared through the Criminal Division before being sent out to United States Attorneys. However, as a result of the considerable expertise that Postal Inspectors have developed in this area over the past couple of years, we have recently authorized the Postal Service to make direct referrals to United States Attorneys. In light of the extensive experience which Criminal Division attorneys have developed in the obscenity area, our guidelines in the United States Attorneys' Manual require United States Attorneys to consult with the Criminal Division before returning any indictments in these cases. We have received a high degree of cooperation from the United States Attorneys in this area. Finally, attorneys in this Division have participated in special training seminars that have been held by both the FBI and the Postal Service dealing with the prosecution of these cases.

Prosecutions under the White Slave Traffic Act, including 18 U.S.C. 2423, have been traditionally referred by the FBI to United States Attorneys who have been given a high degree of independence in the handling of these cases. Departmental guidelines provide that prosecution is generally limited to commercial prostitution activities, but that other violations of the statute may be prosecuted after consultation with the Division where the facts warrant. Statistics concerning prosecutions under 18 U.S.C. 2423 were included in our letter to Chairman Specter of November 5, 1981, and we have now obtained data for Fiscal Year 1981. As we noted in that letter, prosecution statistics under 18 U.S.C. 2423 are obtained from monthly reports submitted by United States Attorneys to the Department. However, this data is reported by the United States Attorneys

only by reference to the principal statute involved in the case. Therefore, our statistics are limited to only those cases where 18 U.S.C. 2423 was the sole or principal violation. With this limitation in mind, we can report that during Fiscal Years 1978 through 1981 charges were filed against 21 defendants under 18 U.S.C. 2423, 18 defendants were convicted, one defendant was acquitted and charges against one defendant was dismissed. Once again, I would note that there may have been additional charges filed and dispositions obtained under 18 U.S.C. 2423 which were reported by United States Attorneys under other statutes and which, therefore, have not been picked up in our statistical reporting system.

I previously noted the limitation in the usefulness of 18 U.S.C. 2252 due to the fact that it requires that distribution be for a commercial purpose. I would now like to comment briefly on certain other aspects of these statutes.

First, jurisdiction under 18 U.S.C. 2251 may be predicated either upon the actual mailing or transportation in interstate or foreign commerce of a visual or print medium. However, jurisdiction also may be found where a defendant "knows or has reason to know" that the visual or print medium will be so transported or mailed. While there will be no difficulty in establishing jurisdiction where it can be shown that material, in fact, was mailed or was shipped in interstate or foreign commerce, the alternative basis for jurisdiction will obviously be more difficult to establish if no such mailing or transportation occurs. However, up to the present time we have not had to deal with any problem caused by this jurisdictional language.

Second, 18 U.S.C. 2253 defines "sexually explicit conduct" as, among other things, "sado-masochistic abuse (for the purpose of sexual stimulation)." This definition is vague because it fails to specify whose sexual stimulation is intended--the defendant's, the child's or some prospective viewer of the

material. This vagueness could, perhaps, be cured by changing the relevant language to "sexually oriented sado-masochistic abuse."

Third, the age of the minor is an element of the offense in both 18 U.S.C. 2251 and 2252. Some obscene material depicts children who are clearly under the age of sixteen; however, the age of the child is not so readily apparent in other obscene material. In the latter cases it may be necessary to identify the child and offer proof of age in order to establish this element of the offense. In light of the clandestine fashion in which such obscene films and magazines are produced this will often be extremely difficult. Unless we have such proof of age, we are forced, as a practical matter, to limit our prosecutions to cases where the subjects depicted in the material are clearly younger than sixteen.

With regard to 18 U.S.C. 2423, we have two suggestions, both of which were made in informal discussions with Judiciary Committee staff at the time this legislation was under consideration.

First, jurisdiction over offenses under the statute extends to offenses taking place "within the District of Columbia." This anachronistic provision is not needed since the District of Columbia has its own criminal code and has set forth a number of prostitution offenses in that code.

Second, we believe that the language "debauchery or other immoral practice" which was deleted when the statute was amended, should be reinserted. This language did not prove troublesome when it was a part of the statute and appears to reach conduct which is not prostitution or commercially exploited prohibited sexual conduct, such as the taking of a minor across the state line for personal gratification. I would also note that this language is included in the parallel provisions in sections 2421 and 2422 dealing with adult prostitution.

In closing, I want to assure the Subcommittee that the Department of Justice takes very seriously the potential for child abuse that is implicated in the violation of these statutes and intends to devote appropriate resources consistent with our other prosecutive obligations to the prosecution of these cases. Once again, I appreciate the opportunity to appear before you today.

Senator SPECTER. Do you think section 2242 was drafted to require a pecuniary interest on the part of the pornographer?

Mr. RICHARD. Well, I tried reviewing the legislative history and, quite candidly, it is somewhat confused. There is, I am sure, concern. I think what probably occurred is that the concern focused on drafting a statute that would reach beyond obscene material and I think as far as I can glean from the record there was an attempt by inserting that commercial requirement to somehow avoid any constitutional attack. But that attack, in our original comments going to the constitutional aspect, is alleviated when they inserted under 2252 the requirement that the material be obscene. We have general adult obscenity statutes on the books that have no commercial requirement. They have been sustained constitutionally.

Senator SPECTER. You just do not need it?

Mr. RICHARD. Right.

Senator SPECTER. Has enforcement been hampered or your priorities reassessed as a result of budget cutbacks?

Mr. RICHARD. Well, certainly in general, yes, and they have been reallocated to some degree, but not necessarily as a result of the budget cuts. In general terms, obviously the Department and this administration have been reassessing the deployment of resources, but not in this area.

Senator SPECTER. This area has not been affected by the budget cuts?

Mr. RICHARD. Not to my knowledge. The same prosecutive emphasis continues and I know of no desire to diminish the aggressive prosecutive attitude I think we are in.

Senator SPECTER. Mr. Caro, how about with respect to the FBI? Have budget cuts reduced the efforts of the FBI in this area?

STATEMENT OF DANA E. CARO

Mr. CARO. No, sir. Child pornography and the investigation of child pornography remains a priority investigation of the FBI and we will continue to do so.

Senator SPECTER. Would it be helpful to have additional resources to apply to this area?

Mr. CARO. Senator, we could always use additional resources. But more importantly, it has taken a period of time from the drafting and the passing of the legislation—it takes about 2 or 3 years for the investigators and I think also for the prosecutors to appreciate and to implement effectively the legislation.

We have had cases just like Mr. Richard has articulated previously in which subjects have advised us, our agents in either a covert or an overt operation, that this legislation has had a definite impact on the activity of pedophiles; no question about it. It has caused them to, on the one hand, to develop an unbelievably deep subculture which is extremely difficult for investigators and prosecutors to uncover through traditional means.

Senator SPECTER. Mr. Caro, where have the cuts affected the FBI while reducing your investigative activities?

Mr. CARO. Well, as you know, Senator, we have not had any reductions within the FBI. We have had—we have, in the recent past—January 28, the Attorney General did grant us concurrent

jurisdiction and we in the FBI—Director Webster has instructed that we conduct an evaluation of where we should continue to allocate our resources. That study is presently going on.

Senator SPECTER. So what you are saying is that there are no cuts as such, but you have been given increased responsibility in the drug area?

Mr. CARO. Yes, sir.

Senator SPECTER. Have you been given increased resources to address the drug area?

Mr. CARO. There is a supplemental request being drafted within the Department of Justice at the present time, sir, for fiscal year 1982.

Senator SPECTER. Do you think as a general matter that the resources for the FBI are adequate for the responsibilities which you have in an investigative way?

Mr. CARO. Senator, we can always use additional resources.

Senator SPECTER. I know. You said that before. But are you generally satisfied with the resources that are available or do you think you are short?

Mr. CARO. We could make a more significant impact with additional resources. But I am very proud of the efforts of the Bureau in the recent past with the resources that are available in this area as well as in other criminal activities.

Senator SPECTER. Mr. Richard, would you care to express any view as to the status of S. 1701, the Missing Children Act? I understand that is subject to considerable analysis and I do not want to press you for a position because I am told you are not quite ready to present one; but to the extent that you could make any comment about the status of that matter, I think it would be of help to this committee and also to my colleague, Senator Paula Hawkins, who is very interested in that legislation as a sponsor.

Mr. RICHARD. As you know, Mr. Chairman, on February 11, 1982, the Department wrote to Senator Thurmond setting forth our view on the bill. Since that time, we have been discussing the matter with representatives of the principal sponsors in an attempt to address our concerns as articulated in that communication. I would say one of our major concerns relates to issues of direct parental acts as to the NCIC system as opposed to going through local law enforcement agencies as is the case currently.

Our concerns are articulated more fully in our communication and I do not know whether this approach would be counterproductive simply as a means of diluting the efforts of the local law enforcement agencies to locate and pursue—identifying the whereabouts of missing children.

As I indicated in our letter, the FBI in mid-1976 or so on its own initiative did in fact set up within NCIC a missing person profile, if you will, which would include a variety of categories, including missing, unemancipated minors. We are hopeful that through discussions with principal sponsors that we will reach a satisfactory resolution.

Senator SPECTER. We will allow it to stand at that point.

Mr. Caro, by letter dated December 21, 1981, the subcommittee was informed that the FBI had investigated some 482 cases under the Federal statute outlining the sexual exploitation of children,

and those same figures reveal 33 indictments, 8 complaints, 4 informations and 23 convictions resulting from those investigations. If more resources were allocated to this field, do you think there would be more by way of successful prosecution efforts on such a large number of cases under investigation?

Mr. CARO. I am not sure, Senator. One thing I can state is that the momentum has built. We have developed an expertise and knowledge of expertise within the subculture so, notwithstanding additional resources, we will be more successful in the next 2 or 3 years than in the past 2 or 3.

Senator SPECTER. It seems to me, based on the experience I have had in the prosecution field, that the indictments, complaints, and information requests are a small proportion of that number of investigative cases, and I know you are very selective and very careful in the cases you bring.

But the thought crosses my mind that you might do significantly better if you had more resources directed to this line.

Mr. CARO. I think the number of investigative matters, 482 investigative matters, may be a slight bit misleading inasmuch as we receive complaints from citizens, and we must act on those complaints, many of which turn out to be very frivolous.

Senator SPECTER. I would appreciate it if you would review that particular statistic and see if you have anything to add about additional resources on this line because there is a very strong feeling that this is a very strong line and I am concerned about the disparities and if they are unfounded, I would like to know.

I would like to know if additional resources would be useful.

Let me ask you one final question and that is, Do you believe there is any significant link between child pornography and organized crime in this country?

Mr. CARO. That is not the easiest question to answer. Indications to date are that the traditional LCN La Cosa Nostra, does not have a direct tie with kiddie pornography, child pornography.

Senator SPECTER. There is a fair amount of organized crime that is not La Cosa Nostra. I carefully omitted that designation in formulating the question of organized crime because of the blanket that it casts on this.

But aside from La Cosa Nostra, there is a good bit of organized crime in our country and my question really goes to that, with respect to the connection, if any, between child pornography and organized crime.

Mr. CARO. There are isolated pockets where organized criminal enterprises do have and are involved in primarily the distribution of child pornography literature, but organized crime figures are not as deeply entrenched in this area as they are in pornography, the large-scale pornography.

Senator SPECTER. But they are entrenched to some extent?

Mr. CARO. But not nearly as interested or entrenched as they are in the nationwide pornography that was detailed in the Miami pornography case that was just recently prosecuted successfully.

Senator SPECTER. Why not, not as lucrative?

Mr. CARO. Not as lucrative.

Senator SPECTER. All right, gentlemen. We very much appreciate your being with us today. We will have some additional questions to submit to you. Our time is always too short.

Thank you.

[The prepared statement of Mr. Caro follows:]

Prepared Statement of Dana E. Caro

MR. CHAIRMAN:

I AM DANA E. CARO, DEPUTY ASSISTANT DIRECTOR, CRIMINAL INVESTIGATIVE DIVISION AT FBI HEADQUARTERS. RESPONSIBILITIES OF THIS POSITION INCLUDE THE MANAGEMENT OF THE FBI'S OVERALL INVESTIGATION OF ORGANIZED CRIME.

I WANT TO THANK YOU FOR THE PRIVILEGE OF APPEARING BEFORE YOUR COMMITTEE AND DISCUSSING WITH YOU THE FBI'S RESPONSIBILITIES AND ACHIEVEMENTS IN INVESTIGATING FEDERAL STATUTES DEALING WITH THE SEXUAL EXPLOITATION OF CHILDREN AND THE MAILING OR IMPORTING OF CHILD PORNOGRAPHY.

CHILD PORNOGRAPHY AND THE SEXUAL EXPLOITATION OF CHILDREN INVESTIGATIONS ARE COORDINATED BY THE ORGANIZED CRIME SECTION WHICH IS PART OF THE CRIMINAL INVESTIGATIVE DIVISION AT FBI HEADQUARTERS.

THE FBI'S AUTHORITY FOR THE INVESTIGATION OF CHILD PORNOGRAPHY AND SEXUAL EXPLOITATION MATTERS CAN BE FOUND IN TITLE 18, SECTIONS 2251 THROUGH 2253, UNITED STATES CODE, AND IN TITLE 18, UNITED STATES CODE, SECTION 2423. THE FOCUS OF THE FBI'S CHILD PORNOGRAPHY/ SEXUAL EXPLOITATION OF CHILDREN INVESTIGATIONS IS AIMED AT CURTAILING LARGE SCALE DISTRIBUTORS WHO REALIZED SUBSTANTIAL INCOME FROM MULTI-STATE OPERATIONS; SMALL DISTRIBUTORS WHO ATTEMPT TO INSULATE THEMSELVES FROM FEDERAL PROSECUTION BY LIMITING THE SIZE OF THEIR OPERATION OR FRAGMENTING THEIR BUSINESS INTO SMALL SCALE OPERATIONS, AND CASES INVOLVING THE USE OF MINORS FOR SEXUALLY EXPLICIT CONDUCT FOR THE PURPOSE OF PRODUCING ANY VISUAL OR PRINTED MATERIAL DEPICTING SUCH CONDUCT. IN ADDITION, THE FBI INVESTIGATES INDIVIDUALS ENGAGED IN THE MAILING OR INTERSTATE OR FOREIGN SHIPMENT OF OBSCENE MATERIAL DEPICTING THIS EXPLICIT CONDUCT.

ON FEBRUARY 6, 1978, CONGRESS ENACTED TITLE 18, UNITED STATES CODE, SECTIONS 2251 THROUGH 2253 AND ADDITIONALLY AMENDED TITLE 18, UNITED STATES CODE, SECTION 2423, THE WHITE SLAVE TRAFFIC ACT, WHICH AMENDMENT MADE IT ILLEGAL TO TRANSPORT MINORS INTERSTATE FOR THE PURPOSE OF PROSTITUTION.

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IN SEPTEMBER 1980, THE ATTORNEY GENERAL FURNISHED GUIDELINES TO THE FBI STATING THAT THE FBI HAS PRIMARY INVESTIGATIVE JURISDICTION OF TITLE 18, UNITED STATES CODE, SECTION 2251 (SEXUAL EXPLOITATION OF CHILDREN). FURTHER, THE ATTORNEY GENERAL ADVISED THAT THE UNITED STATES POSTAL SERVICE WOULD HAVE CONCURRENT JURSIDICTION WITH THE FBI FOR INVESTIGATION OF VIOLATIONS OF TITLE 18, UNITED STATES CODE, SECTION 2252 (TRANSPORTATION OF CHILD PORNOGRAPHY). THE ATTORNEY GENERAL INSTRUCTED THAT THE UNITED STATES POSTAL SERVICE WOULD INVESTIGATE VIOLATIONS OF THIS STATUTE WHEN THE PORNOGRAPHIC MATERIAL WAS TRANSPORTED THROUGH THE USE OF THE U.S. MAIL SYSTEM AND THAT THE FBI WOULD INVESTIGATE VIOLATIONS OF THIS STATUTE WHEN THE MATERIALS WERE SHIPPPED IN INTERSTATE OR FOREIGN COMMERCE.

SINCE FEBRUARY 1978, THE FBI HAS INITIATED 482 INVESTIGATIONS INVOLVING VIOLATION OF TITLE 18, UNITED STATES CODE, SECTIONS 2251 THROUGH 2253 AND THE AMENDED SECTION OF TITLE 18, UNITED STATES CODE, SECTION 2423, DEALING WITH THE INTERSTATE TRANSPORTATION OF MINORS FOR THE PURPOSE OF PROSTITUTION. AS A RESULT OF THESE INVESTIGATIONS, EIGHT COMPLAINTS AND FOUR INFORMATIONS HAVE BEEN FILED BY SPECIAL AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION. IN ADDITION, 33 INDICTMENTS HAVE BEEN RETURNED BY FEDERAL GRAND JURIES THROUGHOUT THE UNITED STATES WHEREIN INDIVIDUALS HAVE BEEN CHARGED WITH VIOLATION OF TITLE 18, UNITED STATES CODE, SECTIONS 2251 THROUGH 2253 AND TITLE 18, SECTION 2423. AS A RESULT OF THESE COMPLAINTS, INFORMATIONS AND INDICTMENTS, 23 INDIVIDUALS HAVE BEEN CONVICTED IN UNITED STATES DISTRICT COURTS. AS A RESULT OF THE EVIDENCE PRESENTED IN THESE CASES, UNITED STATES DISTRICT COURTS HAVE RECOGNIZED THE SERIOUSNESS OF CHILD PORNOGRAPHY AND THE SEXUAL EXPLOITATION OF CHILDREN AND IN TWO OF THESE INVESTIGATIONS, THREE SUBJECTS HAVE RECEIVED SENTENCES OF TEN, FIFTEEN AND TWENTY-FIVE YEARS RESPECTIVELY.

AS A RESULT OF THESE INVESTIGATIONS, THE FBI HAS DETERMINED THAT A CLANDESTINE SUBCULTURE EXISTS IN THE UNITED STATES WHICH IS FUNCTIONING IN VIOLATION OF THE CHILD PORNOGRAPHY AND SEXUAL EXPLOITATION OF CHILDREN STATUTES. THIS CULTURE IS INVOLVED IN RECRUITING AND TRANSPORTING MINORS FOR SEXUAL EXPLOITATION AND

INVESTIGATION HAS REVEALED THAT THIS CULTURE IS VERY DIFFICULT TO PENETRATE. IT HAS BEEN DETERMINED THAT THE LARGEST PERCENTAGE OF CHILD PORNOGRAPHY AVAILABLE IN THE UNITED STATES TODAY WAS ORIGINALLY PRODUCED FOR THE SELF-GRATIFICATION OF THE MEMBERS OF THIS CULTURE AND WAS NOT NECESSARILY PRODUCED FOR ANY COMMERCIAL PURPOSE. PEDOPHILES MAINTAIN CORRESPONDENCE AND EXCHANGE SEXUAL EXPLICIT PHOTOGRAPHS WITH OTHER MEMBERS OF THIS SUBCULTURE AND OFTEN ESTABLISH CONTACT WITH EACH OTHER THROUGH "SWINGER" TYPE MAGAZINES AND NEWSPAPERS WHICH ACT AS MAIL FORWARDING SERVICES FOR THE READERS. FBI INVESTIGATIONS HAVE REVEALED THAT COMMERCIAL PHOTOGRAPHERS AND MAJOR DISTRIBUTORS POSE AS MEMBERS OF THIS SUBCULTURE AND OBTAIN FREE OF CHARGE THE SEXUALLY EXPLICIT PHOTOGRAPHS OF MINOR CHILDREN. AS A RESULT, MANY OF THE PHOTOGRAPHS TAKEN FOR PRIVATE USE AND OBTAINED BY THESE COMMERCIAL PHOTOGRAPHERS AND PORNOGRAPHIC DISTRIBUTORS SUBSEQUENTLY APPEAR IN CHILD PORNOGRAPHY MAGAZINES WHICH HAVE WIDE COMMERCIAL DISTRIBUTION. NEITHER THE CHILD POSING FOR THE PICTURE OR THE ORIGINAL PHOTOGRAPHER RECEIVE ANY PAYMENT FROM THESE COMMERCIAL PHOTOGRAPHERS OR MAJOR DISTRIBUTORS. THEREFORE, THE FBI'S EFFECTIVENESS IN COMBATTING CHILD PORNOGRAPHY AND THE SEXUAL EXPLOITATION OF CHILDREN AT THE GRASS ROOTS HAS BEEN SERIOUSLY IMPAIRED BY THE PECUNIARY INTEREST REQUIREMENT CONTAINED IN TITLE 18, U.S. CODE, SECTIONS 2251 AND 2252.

AS I HAVE PREVIOUSLY INDICATED, INDIVIDUALS INVOLVED IN THE PRODUCTION OF CHILD PORNOGRAPHY AND THE SEXUAL EXPLOITATION OF CHILDREN FUNCTION IN A CLANDESTINE MANNER AND AS A RESULT, TRADITIONAL INVESTIGATIVE TECHNIQUES SUCH AS RECORD REVIEWS, INTERVIEWS, GRAND JURIES, ETC., ARE NOT ALWAYS EFFECTIVE IN DEVELOPING PROSECUTABLE CASES AGAINST THESE INDIVIDUALS. IN ADDITION, INVESTIGATIONS HAVE PROVEN THAT IT IS DIFFICULT TO OBTAIN THE COOPERATION OF CHILDREN WHO HAVE BEEN EXPLOITED DUE TO THEIR AGE AND THE DESIRE OF THEIR PARENTS TO SHIELD THEM FROM EMBARASSMENT AND PROTRACTED JUDICIAL PROCEEDINGS. HOWEVER, THE FBI HAS DETERMINED THAT THROUGH THE USE OF LONG TERM UNDERCOVER OPERATIONS, INDIVIDUALS INVOLVED IN THESE VIOLATIONS OF FEDERAL LAW

CAN BE UNCOVERED AND PROSECUTED. IN ADDITION, IT HAS BEEN RECOMMENDED THAT TITLE III OF THE OMNIBUS CRIME CONTROL BILL AND SAFE STREETS ACT OF 1968 BE AMENDED TO INCLUDE VIOLATIONS OF TITLE 18, UNITED STATES CODE, SECTIONS 2251 THROUGH 2253 AND 2423 AS OFFENSES WHICH ARE SUBJECT TO COURT APPROVED ELECTRONIC INTERCEPTS. THROUGH THE INCLUSION OF THESE STATUTES IN TITLE III, THE FBI WOULD BE ABLE TO DEVELOP EVIDENCE AGAINST ALL OF THE CONSPIRATORS INVOLVED IN THE PRODUCTION AND DISTRIBUTION OF CHILD PORNOGRAPHY AND EXPLOITATION OF CHILDREN.

FBI INVESTIGATIONS HAVE REVEALED THAT CHILD PORNOGRAPHY HAS A SEVERE EFFECT ON OUR SOCIETY, PARTICULARLY IN VIEW OF THE FACT THAT CHILD PORNOGRAPHERS HAVE RECRUITED, INFLUENCED AND ENTICED CHILDREN INTO SEXUAL EXPLOITATION, WHICH ACTIVITY HAS BEEN FOUND BY PSYCHOLOGISTS TO HAVE A LONG LASTING EFFECT ON THESE CHILDREN. I AM HOPEFUL THAT YOUR HEARINGS WILL BE SUCCESSFUL IN IMPLEMENTING THE RECOMMENDED CHANGE IN THE FEDERAL STATUTE THAT WE HAVE MADE HERE THIS MORNING AND I AGAIN WANT TO EXPRESS MY APPRECIATION FOR THE INVITATION TO APPEAR BEFORE THIS COMMITTEE. I HOPE WE HAVE MADE SOME CONTRIBUTION TO THE COMMITTEE'S HEARINGS.

Senator SPECTER. I would like to call now our next panel, Mr. Charles Nelson, Assistant Chief Postal Inspector, U.S. Postal Service, and Mr. Robert Schaffer, Director of the Office of Inspections, U.S. Customs Service.

Welcome, gentlemen.

I would like to first call on Mr. Charles Nelson, who is Assistant Chief Postal Inspector for the U.S. Postal Service.

I understand you have been with the Service for some 19 years, spent a majority of your time in investigation and audits in the criminal area. We would appreciate your assistance on this issue.

Your full statement will be made a part of the record and we would appreciate it if you summarize, leaving the maximum amount of time for questioning.

STATEMENTS OF A PANEL CONSISTING OF: CHARLES P. NELSON, ASSISTANT CHIEF POSTAL INSPECTOR, U.S. POSTAL SERVICE; AND ROBERT SCHAFFER, DIRECTOR, OFFICE OF INSPECTIONS, U.S. CUSTOMS SERVICE.

Mr. NELSON. I will summarize very briefly inasmuch as the statement is entered.

In late 1977 or early 1978, we started a training program to prepare inspectors to investigate the exploitation statute, as I will call it. We now have approximately 75 inspectors trained throughout the Nation. Since 1978, we have arrested 94 individuals. We have amassed, I think, about 73 convictions. Of that 73, 25 have lead to

incarceration. The average sentence has been about 5⅔ years or 5.8 years.

To break that down a little more for you, about 60 percent of those cases are, what I would call, noncommercial types. They would not fit into the exploitation statute. In the exploitation area, we have handled about 40 percent through the courts.

We have two alternatives, if it is a collector or a trader-type individual, such as maybe the first witness would have been. We have section 1461 of title 18, United States Code, that Mr. Richard mentioned, and we have local prosecution which we have utilized a great deal.

Senator SPECTER. Why do you utilize local prosecution?

Mr. NELSON. As opposed to section 1461?

Senator SPECTER. Yes.

Mr. NELSON. Because some of the criteria for section 1461 were restrictive for some of the offenders we identify.

Senator SPECTER. How do you customarily get your investigative leads, given the general secrecy of the postal system?

Mr. NELSON. We monitor many, many magazines and publications. We send test correspondence in response to advertising. We make test purchases. We had two test programs that we conducted, one in the Northeast, but we had to cease because we were compromised. Here we started publications ourselves and put ads in and received responses. We have another one that is just starting in Chicago to give us investigative leads.

Senator SPECTER. Could you give us a typical case you have brought, starting with what your original suspicion was, how you developed the case, just for illustrative purposes?

Mr. NELSON. There is one in the South, I think it was Alabama, where we had a response to correspondence we had sent in reply to an ad and—I do not remember the monthly publication—and the response something like, "Yes, I have—what we will call—child pornography available, nude photos of young men and women depicting various sexual acts;" and we made three purchases, I believe, from that individual.

Senator SPECTER. And were the mails used?

Mr. NELSON. Yes, the mails were used in all three transactions.

Senator SPECTER. Did you have any issue raised as to entrapment?

Mr. NELSON. No, we did not.

Senator SPECTER. What kind of photographs were present there?

Mr. NELSON. It involved homosexual photographs of anal and oral intercourse, young ladies in lesbian-type affairs. There was one instance where there was a child approximately 10 months old involved in one photograph.

Senator SPECTER. And what was the 10-month-old child doing?

Mr. NELSON. As I recall, it was an effort by an adult to make penetration.

Senator SPECTER. What kind of sentence was involved in that case?

Mr. NELSON. I am not sure. It was imprisonment, but I cannot tell you what exactly the sentence was.

Senator SPECTER. What is your view of the deterrent effect of imprisonment on the conduct of others?

Mr. NELSON. I think it is a very good preventative tool. In the years I worked investigations, certainly the majority of people were more frightened of going to prison than anything else. That was always important when you conducted investigations.

Senator SPECTER. Do you think the prosecution in Federal court is more of a deterrent than in the State courts with respect to the likelihood of a jail sentence?

Mr. NELSON. No, I do not believe it is. I think that we generally find that we get stiffer sentences in State courts than we do in Federal courts.

Senator SPECTER. Have you brought any prosecutions in Pennsylvania or Philadelphia?

Mr. NELSON. I am not sure. I suspect we have.

Senator SPECTER. The experience I have seen would be contradictory to that.

How many State court sentences have you seen?

Mr. NELSON. I think I looked—when we got the letter, I think I looked at 25 of them.

Senator SPECTER. And how many Federal court sentences have you seen?

Mr. NELSON. Probably 15 to 20 that I reviewed.

Senator SPECTER. I would be interested if you would provide us with a followup on that, Mr. Nelson, as to what your observations have been in specific cases to support your conclusion on the sentencing, that you have found State court sentences to be tougher than Federal court sentences.

[The material requested by Senator Specter and the prepared statement of Mr. Nelson follow:]

OFFICE OF THE CHIEF POSTAL INSPECTOR,
Washington, D.C., April 7, 1982.

Hon. ARLEN SPECTER,
Chairman, Subcommittee on Juvenile Justice,
Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On behalf of the U.S. Postal Service, I wish to thank you for the opportunity to testify at your recent hearing on child pornography. During the hearing, you requested additional information regarding the sentencing of individuals convicted of child pornography violations following investigations by the Postal Inspection Service.

Since 1978, three individuals have been convicted and sentenced after being convicted of child pornography violations in the state of Pennsylvania. One was convicted and sentenced in federal court and two were convicted and sentenced in state court.

Below are the names of the three individuals, the date of their sentence and their sentence.

Joseph M. Schwartz—(Federal Court) Sentenced January 7, 1979, to 3 years in prison and $5,000 fine.

Robert Johnson—(State Court) Sentenced October 30, 1981, to 5 years probation and fined $2,000.

Dr. Henry Borska—(State Court) Sentenced January 28, 1982,—Admitted to Rehabilitation Dispoeition Program for two years and fined $750 court costs.

Of the 73 child pornography convictions since 1978, 38 were on federal charges and 35 were on state charges. Of those convicted in federal courts nine were sentenced to prison terms. The remaining 29 were given probation, released to some type of remedial program, fined, etc. Fourteen of those convicted in state courts were sentenced to prison terms and 21 were placed on probation, required to undergo treatment, perform community services, fined, etc. Attached is a list showing the violators and the sentences given in federal and state courts. The average federal sentence was 4.2 years and the average state sentence was 6.2 years.

Once again, thank you for the opportunity to testify at your hearing. If further assistance/information is needed, please do not hesitate to contact me.

Sincerely,

C. P. NELSON,
Assistant Chief Inspector,
Criminal Investigations.

Attachments.

Convicted child pornographers who received prison sentences 1978–81

Violators:	*Sentence (years)*
State cases:	
Jacobs	20
Washer	6
Matthow	7
Murk	1
Dettmer	5
Wojciechwoski	3
Heiny	1
Miller	10
Kneiding	5
Naughton, F.	14
Naughton, M.	3
Gilbert	3
Barkus	.12
Burwell	10
State total	88.12
Federal cases:	
Nilsen	5
Schwartz	3
Ryan	5
Aja	1.5
Fogarty	.5
Miller	8
Naughton, F.	5
Ames	5
Blucher	5
Federal total	38

Average Federal sentence: 4.2 years.
Average State sentence: 6.2 years.

Prepared Statement of Charles P. Nelson

MR. CHAIRMAN, I AM CHARLES P. NELSON, ASSISTANT CHIEF POSTAL INSPECTOR OFFICE OF CRIMINAL INVESTIGATIONS FOR THE U. S. POSTAL INSPECTION SERVICE. I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE THIS SUBCOMMITTEE TODAY TO DISCUSS OUR EFFORTS TO ENFORCE FEDERAL LAWS PROHIBITING THE MAILING OF CHILD PORNOGRAPHY.

THE POSTAL INSPECTION SERVICE IS THE INVESTIGATIVE ARM OF THE UNITED STATES POSTAL SERVICE. IT HAS INVESTIGATIVE JURISDICTION OVER ALL VIOLATIONS OF FEDERAL CRIMINAL LAWS RELATING TO THE POSTAL SERVICE AND IS RESPONSIBLE FOR PERFORMING INTERNAL AUDITS OF THE POSTAL SERVICE AND PROVIDING FOR THE SECURITY OF POSTAL FACILITIES AND EMPLOYEES. AMONG THE CRIMINAL ACTS INVESTIGATED BY POSTAL INSPECTORS ARE: THOSE ACTS INVOLVING AN ATTACK UPON THE POSTAL SERVICE OR ITS EMPLOYEES SUCH AS THEFT OF MAIL, ARMED ROBBERIES, BURGLARIES AND ASSAULTS ON POSTAL EMPLOYEES: AND SECONDLY, THOSE OFFENSES INVOLVING THE CRIMINAL MISUSE OF THE POSTAL SYSTEM FOR PURPOSES SUCH AS THE MAILING OF BOMBS, THE CONDUCT OF FRAUDULENT SCHEMES, AND, OF COURSE, THE SUBJECT OF THIS HEARING--THE USE OF THE MAILS TO TRANSPORT PORNOGRAPHY.

POSTAL INSPECTORS HAVE INVESTIGATED OBSCENITY OFFENSES SINCE 1865 WHEN CONGRESS PASSED THE POSTAL OBSCENITY STATUTE. THE MAJORITY OF INVESTIGATIONS CONDUCTED UNDER THIS STATUTE WERE DIRECTED AT LARGE COMMERCIAL OPERATIONS DEALING PRIMARILY IN OBSCENE MATERIALS USING ADULT MODELS. FOR MANY YEARS TRAFFIC IN CHILD PORNOGRAPHY WAS LIMITED IN SCOPE AND WAS INVESTIGATED IN CONNECTION WITH OTHER OBSCENITY CASES, ESPECIALLY CASES INVOLVING LARGE COMMERCIAL DEALERS. OVER THE YEARS, PROSECUTIONS UNDER THE POSTAL OBSCENITY STATUTE DECLINED DUE TO A SERIES OF SUPREME COURT DECISIONS AND DUE TO AMERICAN SOCIETY IN GENERAL GROWING MORE TOLERANT OF PORNOGRAPHY MATERIAL. UNFORTUNATELY, DURING THE PERIOD OF GREATER TOLERANCE, THE DISTRIBUTION OF OBSCENE MATERIAL DEPICTING CHILDREN WAS ON THE INCREASE. THE PUBLIC WAS OUTRAGED BY THIS TYPE OF MATERIAL, AND CONGRESS RESPONDED TO THE OUTRAGE BY

ENACTING THE THE PROTECTION OF CHILDREN AGAINST SEXUAL EXPLOITATION ACT OF 1977 (TITLE 18, U. S. CODE, SECTIONS 2251-2253). THE NEW STATUTES PROHIBITED THE MANUFACTURE OR DISTRIBUTION FOR PROFIT OF MATERIAL DEPICTING CHILDREN UNDER 16 ENGAGED IN SEXUALLY EXPLICIT CONDUCT.

THE POSTAL INSPECTION SERVICE IMMEDIATELY ACTED TO GIVE PRIORITY ATTENTION TO THE ENFORCEMENT OF THE NEW LAW. AT LEAST ONE EXPERIENCED POSTAL INSPECTOR IN EACH OF OUR 17 DIVISIONS WAS DESIGNATED AS A CHILD PORNOGRAPHY SPECIALIST. ADDITIONAL INVESTIGATIVE ASSISTANCE IS AVAILABLE TO THESE SPECIALISTS WHEN NEEDED. THEY HAVE BEEN PROVIDED TRAINING THAT INCLUDES INSTRUCTION FROM NOTED EXPERTS IN THE CHILD PORNOGRAPHY FIELD SUCH AS POLICE AUTHORITIES AND PSYCHIATRISTS, AS WELL AS DISCUSSIONS WITH CONVICTED PEDOPHILES. THE TRAINING PROCESS IS CONDUCTED ON A CONTINUING BASIS TO ENSURE THAT INSPECTORS ASSIGNED TO PORNOGRAPHY INVESTIGATIONS MAINTAIN AND IMPROVE THEIR EXPERTISE.

CHILD PORNOGRAPHY INVESTIGATIONS CONDUCTED BY THE POSTAL INSPECTION SERVICE SINCE 1978 HAVE RESULTED IN THE ARREST OF NINETY-FOUR OFFENDERS. SEVENTY-THREE HAVE BEEN CONVICTED, AND COURT ACTION FOR SOME OF THE NINETY-FOUR INDIVIDUALS ARRESTED IS CURRENTLY PENDING. WE ANTICIPATE ADDITIONAL CONVICTIONS ONCE ALL COURT ACTIVITY IS COMPLETED. TWENTY-FIVE OF THOSE CONVICTED HAVE BEEN SENTENCED TO PRISON TERMS, WITH TERMS AVERAGING 5.8 YEARS.

TRAFFICKERS IN CHILD PORNOGRAPHY HAVE ALWAYS MAINTAINED A LOW PROFILE. HOWEVER, SINCE THE ENACTMENT OF THE PROTECTION OF CHILDREN AGAINST SEXUAL EXPLOITATION ACT OF 1977, THEY HAVE VIRTUALLY GONE UNDERGROUND. DURING ADULT OBSCENITY INVESTIGATIONS, WE ARE OFTEN ABLE TO ORDER MATERIALS DIRECTLY FROM SOLICITATIONS OR ADVERTISEMENTS BUT, WITH CHILD PORNOGRAPHERS; WE MUST GAIN ACCESS TO THE DISTRIBUTORS' UNDERGROUND NETWORKS. WE MONITOR THOSE PUBLICATIONS ORIENTED TOWARD PEDOPHILES, AND WE MAINTAIN CLOSE CONTACT WITH LOCAL POLICE AND SOCIAL

WORKERS WHO, IN THEIR WORK, FREQUENTLY COME UPON CHILD ABUSE AND/OR CHILD PORNOGRAPHY. WE ALSO EXAMINE EVIDENCE, SUCH AS MAILING LISTS SEIZED DURING THE EXECUTION OF SEARCH WARRANTS, IN AN EFFORT TO IDENTIFY PERSONS INTERESTED IN THIS TYPE OF MATERIAL. OUR EFFORTS ARE PRIMARILY DIRECTED AT IDENTIFYING THOSE WHO WOULD SELL CHILD PORNOGRAPHY THROUGH THE MAILS. OUR JURISDICTION IS LIMITED TO POSTAL-RELATED OFFENSES, AND INVESTIGATIONS GENERALLY FOLLOW AN IDENTIFICATION, TEST CORRESPONDENCE, TEST PURCHASE PROCEDURE. IF, DURING THE COURSE OF THIS PROCEDURE, WE DISCOVER EVIDENCE OF OTHER OFFENSES SUCH AS CHILD ABUSE, WE REFER IT TO THE PROPER AUTHORITIES FOR ATTENTION.

THE PRODUCTION AND/OR DISTRIBUTION OF CHILD PORNOGRAHY IS POTENTIALLY LUCRATIVE, HOWEVER, WE HAVE NOT FOUND IT TO BE HIGHLY PROFITABLE WHEN CONDUCTED THROUGH THE MAILS. ALTHOUGH WE HAVE INVESTIGATED SEVERAL COMMERCIAL OPERATIONS, THEY WERE RELATIVELY MINOR IN SCOPE COMPARED TO OPERATIONS DEALING IN ADULT MATERIAL AND DID NOT ENJOY THE FINANCIAL SUCCESS OFTEN ACHIEVED IN THE ADULT PORNOGRAPHY BUSINESS. MOST OFTEN, OUR INVESTIGATIONS HAVE RESULTED IN THE IDENTIFICATION OF COLLECTORS, SOME OF WHOM SELL THEIR MATERIAL WHILE OTHERS DO NOT. THOSE WHO DO NOT SELL THEIR MATERIAL OFTEN LOAN OR TRADE COLLECTIONS WITH OTHERS WHO SHARE THEIR INTEREST.

ONLY RARELY DOES THE CHILD PORNOGRAPHER MEASURE UP TO THE STEREOTYPE IMAGE OF THE "DIRTY OLD MAN." MANY OF THOSE DISPLAYING AN INTEREST HELD RESPECTED POSITIONS WITHIN THEIR COMMUNITIES AND HAVE BEEN ABLE TO CONCEAL THEIR INTEREST IN CHILD PORNOGRAPHY FOR YEARS. THERE HAVE BEEN THE PROFESSIONAL DEALERS IDENTIFIED IN OUR INVESTIGATIONS, BUT THERE HAVE ALSO BEEN CLERGYMEN, TEACHERS, PSYCHOLOGISTS, JOURNALISTS AND BUSINESSMEN.

WE INVESTIGATE THE DISTRIBUTION OF MATERIAL OF BOTH DOMESTIC AND FOREIGN ORIGIN. GENERALLY, THE DOMESTIC MATERIAL IS OF THE "HOMEMADE" VARIETY, WHILE THE IMPORTED MATERIAL IS PRODUCED BY COMMERCIAL DEALERS. WE HAVE ALSO NOTED THAT ONCE AN ITEM OF CHILD PORNOGRAPHY BEGINS TO CIRCULATE, IT IS REPRODUCED FOR FURTHER DISTRIBUTION, TIME

AND TIME AGAIN. AS A RESULT, A DISTRIBUTOR MAY BE MANY TIMES REMOVED FROM THE ORIGIN OF THE MATERIAL. WHILE THIS AND OTHER FACTORS COMPLICATE AN INVESTIGATION, WE HAVE MADE GOOD PROGRESS IN COMBATING THE USE OF THE MAILS TO DISTRIBUTE CHILD PORNOGRAPHY. MANY OF THE MAJOR DOMESTIC COMMERCIAL MAIL ORDER DEALERS HAVE BEEN IDENTIFIED AND PROSECUTED; HOWEVER, SOME CHILD PORNOGRAPHY IS STILL BEING CIRCULATED THROUGH THE MAILS BY COMMERCIAL DEALERS WHO HAVE BECOME EXTREMELY CAUTIOUS AND WHO TRY TO RESTRICT THEIR SALES TO KNOWN PEDOPHILES.

THE BULK OF THE CHILD PORNOGRAPHY TRAFFIC IS NON-COMMERCIAL. THIS ACTIVITY IS NOT IN VIOLATION OF THE FEDERAL CHILD PORNOGRAPHY STATUTES. THESE STATUTES REQUIRE A COMMERCIAL TRANSACTION IN CONNECTION WITH THE MANUFACTURE OR DISTRIBUTION OF THE MATERIAL BEFORE A VIOLATION EXISTS.

WHEN CONFRONTED WITH A NON-COMMERCIAL SITUATION, WE HAVE SEVERAL ALTERNATIVES. WE MAY UTILIZE THE POSTAL OBSCENITY STATUTE; HOWEVER, THE DEPARTMENT OF JUSTICE HAS BEEN CONCERNED THAT THE POTENTIAL NUMBER OF NON-COMMERCIAL CASES WOULD BE LARGE AND EXCEED THE AVAILABLE FEDERAL PROSECUTIVE RESOURCES. CONSEQUENTLY, GUIDELINES WERE ESTABLISHED TO IDENTIFY THOSE CASES WHICH SHOULD BE ACTED UPON. THESE GUIDELINES ARE DESIGNED TO OFFSET ANY TYPE OF SELECTIVE PROSECUTION CLAIMS RAISED BY DEFENDANTS. THESE GUIDELINES CALL FOR THE FEDERAL PROSECUTION OF CHILD PORNOGRAPHY OFFENDERS UNDER TITLE 18, UNITED STATES CODE, SECTION 1461, WHEN A COMBINATION OF THE FOLLOWING FACTORS EXIST: MORE THAN THREE SEIZURES OVER THE PAST YEARS; A LARGE QUANTITY OF CHILD PORNOGRAPHY IMPORTED AT ONE TIME; AN ARREST HISTORY OF CRIMES AGAINST CHILDREN; KNOWN MEMBERSHIP IN A FAMILY SEX GROUP; EMPLOYMENT INVOLVING CHILDREN; PHOTOGRAPHS DEPICTING THE RECIPIENT INVOLVED IN SEXUAL ACTIVITY WITH CHILDREN; CORRESPONDENCE WITH OTHER PEDOPHILES OR UNDERCOVER AGENTS RELATING TO SEXUAL INVOLVEMENT WITH CHILDREN; AND, DISTRIBUTION OF MATERIAL. WITH THESE GUIDELINES, ONLY A HANDFUL OF OUR NON-COMMERCIAL CASES HAVE BEEN PROSECUTED FEDERALLY.

ANOTHER ALTERNATIVE IS TO CONTACT THE APPROPRIATE STATE OR LOCAL AUTHORITIES TO DETERMINE WHETHER THE EVIDENCE WE HAVE GATHERED SUPPORTS A VIOLATION OF THEIR LAWS. THIS HAS BEEN OUR MOST FREQUENTLY EXERCISED OPTION IN NON-COMMERCIAL CASES AS IS EVIDENCED BY THE FACT THAT DURING FISCAL YEAR 1981, 29 OF OUR 42 CHILD PORNOGRAPHY ARRESTS WERE FOR STATE OR LOCAL VIOLATIONS.

THE PROTECTION OF CHILDREN AGAINST SEXUAL EXPLOITATION ACT OF 1977 APPLIES TO THOSE WHO PRODUCE CHILD PORNOGRAPHY AND/OR THOSE WHO TRANSPORT IT FOR SALE OR DISTRIBUTE IT FOR SALE. THE ACT DOES NOT ADDRESS THE TRADERS AND LENDERS OF CHILD PORNOGRAPHY, WHO WE HAVE FOUND ACCOUNT FOR AN APPRECIABLE NUMBER OF THOSE INDIVIDUALS INVOLVED IN THE TRAFFICKING OF CHILD PORNOGRAPHY. THESE INDIVIDUALS DO NOT TRANSPORT THEIR MATERIAL THROUGH THE MAILS FOR THE PURPOSE OF SALE OR DISTRIBUTION FOR SALE AND THEREFORE DO NOT VIOLATE THE PROVISIONS OF THE STATUTE.

MR. CHAIRMAN, IT HAS BEEN MY PLEASURE TO REPORT TO YOU THE EFFORTS OF THE POSTAL INSPECTION SERVICE TO ENFORCE FEDERAL LAWS PROHIBITING THE MAILING OF CHILD PORNOGRAPHY. I WILL BE HAPPY TO ANSWER ANY QUESTIONS YOU MAY HAVE.

Senator SPECTER. Let us turn now to you, Mr. Schaffer, Robert Schaffer, Director of the Office of Inspection of the U.S. Customs Service.

We welcome you here and very much appreciate your joining us.

We appreciate your submitting a written statement. It will be made a part of the record. We would like you to, in accordance with our custom, to summarize so that we can have the maximum time for questioning.

STATEMENT OF ROBERT SCHAFFER

Mr. SCHAFFER. Thank you.

I also have with me our Deputy Chief Counsel, Michael Schmitz, who will also be available for questions.

Senator SPECTER. You brought your lawyer with you?

Mr. SCHAFFER. Absolutely. Never go anywhere without him.

Senator SPECTER. You do not have a right to remain silent.

Mr. SCHAFFER. I will try that later on.

Mr. Chairman, I am pleased to have the opportunity to appear before this committee today as the representative of the Customs Service and offer our comments on those laws enforced by Customs which prohibit the importation of material that sexually exploits children.

Just to review the background, customs officers enforce the prohibitions against the importation of pornography and other restricted materials at all ports of entry in the United States. Most importations of this material, including child pornography, arrive in the United States via postal channels. By screening and examining mail, the Customs Service interdicts a significant quantity of pornography. Sealed mail is detained and opened only where Customs officials have reasonable cause to suspect that contraband or dutiable items are contained therein. This determination is made based on several factors including the size, weight and feel of the envelope and the origin of the letter.

During the last 4 years, Customs seized in excess of 247,000 pieces of pornography. A large quantity of these seizures resulted from letter class mail. We estimate that between 60 and 70 percent of the seized material contained child pornography, in whole or in part. We have noted a decrease in the number of seizures being made. This does not necessarily indicate that less pornographic material is being imported, although that may be the case.

There are other factors that have apparently contributed to the decline.

Senator SPECTER. Mr. Schaffer, would you give us an illustration of how you come about a child pornography in a typical case?

Mr. SCHAFFER. It would stem from an inspection in our mail screening operation; by feel or perhaps by profiling the letter from a source country, the inspector would open that particular envelope and determine whether or not something inside was——

Senator SPECTER. What limitations, if any, are there on your authority to open such a letter?

Mr. SCHAFFER. I think at this time I will defer to my attorney.

Senator SPECTER. You have not opened such letters personally, have you?

Mr. SCHAFFER. No, sir, I have not.

Mr. SCHMITZ. There is no limitation on the opening of the letter. The limitation is on the reading of the material in the letter.

As Mr. Schaffer said, we are looking for a profile country.

Senator SPECTER. You say there are no limitations?

Mr. SCHMITZ. Not on the opening of international letter class mail.

The *Ramsey* case back in 1977 was the latest Supreme Court case where the Customs Service had opened letter class mail and found narcotics.

Senator SPECTER. Do you have to have probable cause to open?

Mr. SCHMITZ. No, sir.

Senator SPECTER. Just a will?

Mr. SCHMITZ. Reasonable cause, and that would be——

Senator SPECTER. That is the difference between reasonable cause and probable cause?

Mr. SCHMITZ. Reasonable cause as articulated by the courts is that the mere fact in some cases that a letter is crossing our border subjects it to the same review as a person crossing our border. Mail is no different than a person crossing our border.

Senator SPECTER. Any person crossing a border may be searched?

Mr. SCHMITZ. Yes, sir.

Mr. SCHAFFER. In fact, 314 million people crossed our borders last year and we are charged with the inspection of all those individuals.

Senator SPECTER. But you do not search them.

Mr. SCHAFFER. We have the opportunity to perform the searches.

Senator SPECTER. How many searches do you conduct. Does that apply to an American citizen as well?

Mr. SCHAFFER. Yes, it does.

Senator SPECTER. I have never been searched, even before I was a Senator, even before I was a lawyer.

How many people do you search?

Mr. SCHAFFER. I do not have the number offhand.

Senator SPECTER. Many?

Mr. SCHAFFER. Yes, many.

Senator SPECTOR. A sum?

Mr. SCHAFFER. I could not give you a number.

Senator SPECTER. But you do not do it random?

Mr. SCHAFFER. No. ordinarily we concentrate on potential violators. That is, for suspicion and followed on through based on additional "clues."

Senator SPECTER. What you assert is the mere fact that crossing a foreign boundary, even if you are a U.S. citizen, authorizes the Customs Service to search the individual and you have authority for that?

Mr. SCHMITZ. Yes, sir. The Congress that proposed the bill of rights is the same Congress that gave us the search authority, and the Supreme Court in the *Ramsey* case and prior to that in the *Boyd* case, has harkened back to the fact that the Founding Fathers did not consider a border search to be an unreasonable search under the fourth amendment.

Senator SPECTER. It has been suggested that the Department of Justice has been refused to prosecute some cases turned over by Customs.

Is there any accuracy to that, gentlemen?

Mr. SCHMITZ. Senator, between 1978 and 1981 our survey of our field offices indicated that there were a number of cases that were referred, and I am speaking specifically of child pornography cases, to the Department of Justice and prosecution was declined.

Senator SPECTER. Were you unhappy about that?

Mr. SCHMITZ. The Customs Service was.

Now, I would like you to understand that these were noncommercial shipments, for the most part. As Mr. Schaffer testified, most of what we do catch is personal use, not commercial. Since the new Department of Justice guidelines on prosecution in this area were promulgated in November of 1981, our experience has been that cases we have referred have been prosecuted, but it has been such a short time since the promulgation.

Senator SPECTER. Our budget considerations limited the inspections conducted by your department?

Mr. SCHAFFER. The budget considerations certainly may impact, but the primary change in our operations has come about through a reallocation of our resources and priorities. Most of our attention from a law enforcement standpoint, which is our highest priority would be directed to drug smuggling.

Senator SPECTER. What have been the budget cuts for your department?

Mr. SCHAFFER. I do not have the numbers with me, Senator, but our proposal for 1983 would reduce our inspectional area by approximately 7,000 positions. But again, through redeployment of our inspectors and concentration on certain areas and through better intelligence, we hope to be more effective, not less effective, even with reductions in our manpower.

Senator SPECTER. More efficient, notwithstanding the job cuts, a better job?

Mr. SCHAFFER. We believe that is possible, especially in the drug area. We have been working with other agencies, with DEA, and and the FBI, and with the Coast Guard and other law enforcement agencies and also the Department of Defense. We think we are going to do a better job in the drug area with that help.

Senator SPECTER. That is the right attitude to have. We will all be watching the statistics. I think it is pretty hard to stretch the rubber band.

Mr. SCHAFFER. In the last few months, we made a seizure of 4,000 pounds of cocaine in one shipment down in Miami; and 120 pounds of heroin in New York. Things are looking good. We are optimistic.

Senator SPECTER. There are more fish in the barrel to shoot at.

Mr. SCHAFFER. The drug industry is quite large, so you are right.

Senator SPECTER. What is the relative priority between drugs and pornography, child pornography?

Mr. SCHAFFER. Well, I do not know where in terms of a particular ranking. Certainly, we are attempting to cease——

Senator SPECTER. Have you taken the resources from child pornography matters and put them on drug matters?

Mr. SCHAFFER. We have moved some of our resources from the area of mail-screening into other areas of our operation to concentrate on commercial shipments. That might have an impact in terms of the screening process.

Senator SPECTER. So you are not talking about an allocation or changes between drugs and child pornography?

Mr. SCHAFFER. I am to some extent.

Senator SPECTER. Which way does it go?

Mr. SCHAFFER. We are moving resources out of the screening operation into other areas that we believe are more cost effective in doing the job against drugs out in all areas.

Senator SPECTER. Drugs is a more significant concern of yours than child pornography?

Mr. SCHAFFER. Yes, it is.

[The prepared statement of Mr. Schaffer follows:]

Prepared Statement of Robert P. Schaffer

Mr. Chairman, I am pleased to have the opportunity to appear before this committee today as the representative of the Customs Service and offer our comments on those laws enforced by Customs which prohibit the importation of material that sexually exploits children.

The Customs Service has responsibility for interdicting all contraband, including pornography, at more than 300 ports of entry and along the land and sea borders of the United States. Customs is comprised of approximately 13,300 (March 1982 figure) employees dedicated to the collection and protection of the revenue, and the enforcement of laws which prohibit or restrict the entry of articles which could endanger the health and welfare of our citizens. This task includes the enforcement of over 400 statutes for approximately 40 different Federal agencies.

During the 1977 hearings before the House Subcommittees on Crime and Select Education, Customs advocated the passage of a law which would make it a crime to transport or mail child pornography in foreign commerce. The Customs Service believes that continued efforts must be made to stem the importation of pornography, especially child pornography because it victimizes children in the most degrading way possible.

Customs officers enforce the prohibitions against the importation of pornography and other restricted materials at all ports of entry in the United States. Most importations of this material, including child pornography, arrive in the United States via postal channels. By screening and examining mail, the Customs Service interdicts a significant quantity of pornography. Sealed mail is detained and opened only where Customs officials have reasonable cause to suspect that contraband or dutiable items are contained therein. This determination is

MADE BASED ON SEVERAL FACTORS INCLUDING THE SIZE, WEIGHT AND FEEL OF THE ENVELOPE AND THE ORIGIN OF THE LETTER.

CUSTOMS PRIMARY ENFORCEMENT MECHANISM AGAINST THE IMPORTATION OF PORNOGRAPHIC MATERIALS IS SECTION 1305 OF TITLE 19 OF THE UNITED STATES CODE. UNDER PRESENT PROCEDURES, CUSTOMS OFFICERS MAY SEIZE ANY MATERIALS BELIEVED TO BE OBSCENE. HOWEVER, SUCH MATERIALS MUST, WITHIN 14 DAYS, BE SUBMITTED TO A UNITED STATES DISTRICT COURT FOR A DETERMINATION AS TO WHETHER THE MATERIALS SHOULD BE FORFEITED AND DESTROYED AS OBSCENE.

DURING THE LAST FOUR YEARS CUSTOMS SEIZED IN EXCESS OF 247,000 PIECES OF PORNOGRAPHY. A LARGE QUANTITY OF THESE SEIZURES RESULTED FROM LETTER CLASS MAIL. WE ESTIMATE THAT BETWEEN 60 AND 70 PERCENT OF THE SEIZED MATERIALS CONTAINED CHILD PORNOGRAPHY, IN WHOLE OR IN PART. WE HAVE NOTED A DECREASE IN THE NUMBER OF SEIZURES BEING MADE. THIS DOES NOT NECESSARILY INDICATE THAT LESS PORNOGRAPHIC MATERIAL IS BEING IMPORTED, ALTHOUGH THAT MAY BE THE CASE.

IN ADDITION TO ENFORCING PORNOGRAPHY PROHIBITIONS, THE CUSTOMS SERVICE IS RESPONSIBLE FOR TWO OF OUR NATION'S HIGHEST PRIORITIES: THE DETECTION OF DANGEROUS NARCOTICS SMUGGLED INTO THIS COUNTRY AND THE COLLECTION OF REVENUE. IN RECENT YEARS, NATIONAL INTEREST HAS MANDATED THAT CUSTOMS PLACE GREATER EMPHASIS ON THESE PRIORITIES.

IN AN ATTEMPT TO ACHIEVE GREATER SUCCESS AND INTENSIFY EFFORTS IN DETECTING DRUG SMUGGLING AND INCREASING REVENUE COLLECTION, CUSTOMS OFFICERS NOW CONCENTRATE ON BULK MAIL RATHER THAN LETTER CLASS MAIL SHIPMENTS. MOREOVER, CUSTOMS RESOURCES HAVE ALSO BEEN DIVERTED FROM THE MAIL DIVISIONS TO CONCENTRATE ON THE INSPECTION OF LARGE CARGO SHIPMENTS WHERE THERE IS A GREATER RISK OF NARCOTIC IMPORTATION AND LOSS OF REVENUE, AND ON PREVENTING THE ILLEGAL EXPORT OF HIGH TECHNOLOGY TO EASTERN BLOC COUNTRIES.

THE DECREASE IN THE NUMBER OF SEIZURES OF PORNOGRAPHIC MATERIALS MAY ALSO BE DUE IN PART TO FEWER MAIL REFERRALS BY THE

U.S. Postal Service. Under existing procedures, the U.S. Postal Service refers to Customs letter class mail arriving from a foreign country in those circumstances where Customs has determined that the point of origin constitutes a "profile" country; one deemed to have yielded a high degree of contraband in the past, including for example, illegal drugs or pornography. Recently, the Postal Service has expressed concern for delays in mail processing. In light of several problems which have surfaced that have hampered cooperative efforts between the two agencies, a joint Treasury and Postal Service task force has been created and is presently working to insure that international mail will not by-pass Customs inspection.

Finally, insofar as the criminal statutes prohibiting child pornography are involved, the Customs Service plays a limited but crucial role. After Customs initial seizure of pornographic materials under section 1305, special agents determine whether evidence is sufficient to warrant criminal proceedings. If criminal prosecution is advised, the case is referred to the Department of Justice. For example, Customs recently referred a case involving child pornography to the U.S. Attorney in the Southern District of New York. In October 1981, an individual arriving on a large ocean liner was detained by a Customs Inspector at the New York Seaport. Physical examination of the individual disclosed approximately 50 child pornographic magazines concealed on his person in a smuggler's vest. The individual was arrested and the matter referred to the U.S. Attorney for prosecution. The case is still pending.

WHILE MOST OF THE PORNOGRAPHY INTERDICTED BY THE CUSTOMS SERVICE IS NON-COMMERCIAL, CUSTOMS IS CONSTANTLY WATCHFUL FOR LARGE COMMERCIAL SHIPMENTS. IN 1981, FOR EXAMPLE, ONE COMMERCIAL SHIPMENT OF 161 CHILD PORNOGRAPHIC BOOKS, PHOTOGRAPHS AND FILMS WAS SEIZED IN HONOLULU, HAWAII. ON DECEMBER 1, 1981, THREE OF THE FOUR DEFENDANTS WERE CONVICTED OF CONSPIRACY AND DISTRIBUTING CHILD PORNOGRAPHY. THE FOURTH DEFENDANT WAS CONVICTED OF DISTRIBUTING CHILD PORNOGRAPHY. THREE DEFENDANTS WERE SUBSEQUENTLY SENTENCED IN MARCH OF THIS YEAR AND GIVEN SUBSTANTIAL PRISON SENTENCES. THE FOURTH OFFENDER HAS BEEN COMMITTED FOR PRE-SENTENCING PSYCHIATRIC EVALUATION AND WILL BE SENTENCED AFTER ANALYSIS IS COMPLETED.

IT HAS BEEN SUGGESTED THAT A GROWING DOMESTIC CHILD PORNOGRAPHY INDUSTRY HAS PRODUCED A DECREASE IN THE AMOUNT OF SEIZURES BEING MADE BY THE CUSTOMS SERVICE. WE FEEL THAT TO REVERSE THE TREND OF CHILD PORNOGRAPHY PRODUCTION, LAWS PROHIBITING CHILD PORNOGRAPHY MUST BE ENFORCED MORE EFFECTIVELY AT THE POINT OF ORIGIN, WHETHER THIS MEANS WITHIN THE UNITED STATES OR IN A FOREIGN COUNTRY. THE TRANSACTIONS THEMSELVES COULD BE MORE READILY DETECTED AT THE INITIAL STAGES, WHERE THE CHILDREN ARE VICTIMIZED, THEREBY IMPEDING SUBSEQUENT PRODUCTION AND DISTRIBUTION EFFORTS.

IN CONCLUSION, THE CUSTOMS SERVICE RECOGNIZES THE MAGNITUDE OF THE PROBLEMS INHERENT IN COMBATTING CHILD PORNOGRAPHY, AND, AS THE FIRST LINE OF DEFENSE AGAINST IMPORTED CHILD PORNOGRAPHY, CUSTOMS WILL CONTINUE TO INTERDICT AND SEIZE CHILD PORNOGRAPHY ARRIVING FROM FOREIGN COUNTRIES. HOWEVER, INCREASED EFFORTS AT THE STATE, LOCAL AND FOREIGN SOURCES ARE ESSENTIAL IF THIS TERRIBLE TRADE IS TO BE STOPPED.

Senator SPECTER. We very much appreciate your joining us. We will be watching closely to see what the budget cuts do in this area. But I admire the attitude and admire the drive.

Thank you very much.

Our next witness is Mr. John Walsh, member of the board of directors of the Adam Walsh Child Resource Center in Fort Lauderdale, Fla. We are expecting the arrival of Senator Hawkins who will introduce our witness.

We will just sit and wait.

[Pause.]

Senator SPECTER. Senator Hawkins, we welcome you.

STATEMENT OF HON. PAULA HAWKINS, A U.S. SENATOR FROM THE STATE OF FLORIDA

Senator HAWKINS. Mr. Chairman, I am happy to be here to testify on a subject of grave concern to this entire country, our children.

I commend you for addressing this subcommittee's attention to what we now know is a true national tragedy, our missing and exploited children.

I want to express my appreciation to you for your important role as one of the original cosponsors of the legislation which I introduced before the committee to begin to address the problem of missing children and unidentified dead in this country. I am most grateful for your continued help in this important endeavor.

As you know, S. 1701 mandates the Attorney General to accept and classify information concerning missing children and unidentified deceased individuals.

Under the provisions of this bill, the Attorney General would be required to accept and classify information concerning missing children and other persons. This information would be available to all Federal, State, and local law enforcement agencies through this country. This legislation would also establish a second clearinghouse of information which would list the description of unidentified bodies.

Unfortunately, there is no national clearinghouse of information on the missing and unidentified dead which is available to identify the some 5,000 individuals who are buried each year in John and Jane Doe graves.

If the body of a child or, for that matter, of an adult is found in a community far from his home, the great likelihood is that the body will be buried without ever being identified. Of course, the family of that child will never learn of his or her fate.

Mr. Chairman, I am pleased to report that this legislation has attracted the support of 67 of our colleagues here in the Senate. It has received endorsements from the American Bar Association, the District Attorneys' Association, the National Association of Chiefs of Police, the National Association of Counties, and the legislatures of many of our States, including Florida and New York.

Unfortunately, the Justice Department has seen fit to oppose the enactment of this legislation.

In a letter to the chairman of the Senate Judiciary Committee, Senator Thurmond of South Carolina, the Department outlined its three reasons for being opposed to the Missing Children Act.

Mr. Chairman, I do not believe that these objections are well founded.

The Department of Justice wants to study the pilot project that they have for missing and unidentified dead. I feel this is a mistake. Homicide detectives and State officials who have been identifying unidentified deceased individuals have advised me that such a file could be set up in a relatively short order if those that are most familiar with this are consulted. A reliable system can be set up within a matter of months. The cost of this unidentified dead file is in the words of the Federal Bureau of Investigation, negligible. The unidentified dead file is a concept whose time has come. We can share with the hundreds of people the anguish of not knowing the fate of their loved ones.

We need to act now. The Department of Justice objects to the codification of the classification of missing children and persons. However, these classifications are so broad and inclusive as to cover all situations. It is highly unrealistic to expect that suddenly a new type of missing person is going to emerge on the American scene. The provision of the Missing Children Act allow parents to have the opportunity to list their children as missing persons. These provisions were inserted in this legislation because our investigation reveals that only 10 percent of the children who are missing in this country ever end up formally and officially listed with law enforcement agencies.

The Department of Justice believes it would be counterproductive because it would encourage parents to go directly to the FBI rather than the local police. Of course, the local police should be the first line of defense in this particular situation.

However, a simple procedure could require that particular parents are allowed to pick up the paperwork at the FBI office, for instance, and list their children as missing. We require that they visit their local law enforcement agency who has jurisdiction over this case.

I will amend the provisions of the Missing Children Act to include this provision. It should solve the concerns of the FBI and the Department of Justice.

I have provided this subcommittee with the written amendments to the legislation that would declare very simply that the Attorney General accept and classify this information from parents, guardians, and next of kin of missing children after they have reported their missing children to the appropriate local investigative authority.

Mr. Chairman, for whatever reason a child has lost his home, he is in serious danger. Whether the child was removed by abduction, parental kidnapping, or parental snatching, as it is called, or runs aways, once on the street and alone, the child is fair game for every kind of exploitation imaginable.

Though it may be comforting to ignore it, children on the street are often sexually exploited. Child prostitution and child pornography is a very real part of life on the street.

I know that your subcommittee has heard testimony today and on past occasions which dramatize highly the true scope of this national tragedy.

Consideration of the legislation before you today is an important step forward in the work of this Congress to insure the safety of this Nation's children. Your efforts are appreciated by all families and all Members of this Congress.

I am very grateful for this opportunity to appear before you and to testify on a subject that is of vital concern to all American families and I have the privilege of introducing to this committee an individual that I have come to know and love and deeply respect during my investigation of the problems of missing children.

Mr. John Walsh, who is sitting next to me, is a successful businessman from Hollywood, Fla., my home State. John and his lovely wife, Revé, have come to the cause of missing children in this country because of their own personal tragedy. It is difficult for us to even imagine the grief and horror associated with the kidnap and murder of a young child. John not only faced this tragedy—he and his lovely wife have turned this experience into a true and heartfelt commitment to the safety and well-being of children everywhere. He has crisscrossed this country on behalf of the Missing Children Act and on behalf of the safety and protection of children in this country, going many days without sleep or rest, trying to convince the law enforcement officials of this country and especially the Justice Department that the time has come that we place as much significance on a missing child as a missing automobile.

We have worked together during the past year, John and I, to insure the successful passage of this legislation and to raise the consciousness of this country to the national tragedy of missing children.

John is an intelligent and an articulate spokesman on the subject. He has taken his own time, his own resources to research and investigate all aspects of the problem of missing and exploited children.

John and Revé Walsh established the Adam Walsh, which was the name of her son, Child Resource Center in Fort Lauderdale, Fla., to carry on his name. I think you will find his insight and his experiences very valuable to your consideration of this legislation.

President Reagan and you and I ran on the slogan of family, home, neighborhood, peace, and freedom. This bill strengthens all aspects of that pledge.

Thank you, Mr. Chairman.

[The text of S. 1701 follows:]

97TH CONGRESS
1ST SESSION

S. 1701

To amend title 28, United States Code, to authorize the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals and in the location of missing children and other specified individuals.

IN THE SENATE OF THE UNITED STATES

OCTOBER 5 (legislative day, SEPTEMBER 9), 1981

Mrs. HAWKINS (for herself, Mr. DENTON, Mr. PELL, Mr. SPECTER, Mr. SYMMS, and Mr. THURMOND) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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A BILL

To amend title 28, United States Code, to authorize the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals and in the location of missing children and other specified individuals.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Missing Children Act".

SEC. 2. (a) Section 534(a) of title 28, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by redesignating paragraph (2) as paragraph (4);

(3) by inserting after paragraph (1) the following new paragraphs:

"(2) acquire, collect, classify, and preserve any information which would assist in the identification of any deceased individual who has not been identified within fifteen days after the date of the discovery of the deceased individual;

"(3) acquire, collect, classify, and preserve any information from authorized officials of the Federal Government, the States, cities, and penal and other institutions, or from a parent, legal guardian, or next of kin of an unemancipated person, as defined by the laws of the State of residence of such person, which would assist in the location of any missing person who—

"(A) is under proven physical or mental disability making the person a danger to himself or others;

"(B) is in the company of another person under circumstances indicating that his physical safety is in danger;

"(C) is missing under circumstances indicating that the disappearance was not voluntary; or

"(D) is unemancipated as defined by the laws of his State of residence; and"; and

(4) by striking out "exchange these records" in paragraph (4) (as so redesignated) and inserting in lieu thereof "exchange such records or information".

SEC. 3. (a) The heading for section 534 of title 28, United States Code, is amended to read as follows:

"§534. Acquisition, preservation, and exchange of identification records and information; appointment of officials".

(b) The table of sections at the beginning of chapter 33 of such title is amended by striking out the item relating to section 534 and inserting in lieu thereof the following new item:

"534. Acquisition, preservation, and exchange of identification records and information; appointment of officials.".

Senator SPECTER. Thank you very much, Senator Hawkins, for a very enlightening and inspirational presentation. It has been a great pleasure for me as well as other members of the class of 1980 to have such a beautiful and talented member of our group. I have enjoyed our working together generally and especially on this particular area. Your leadership is certainly exemplary and it is a very impressive list of cosponsors which you have added to the legislation, not only in the Senate but I predict that list will soon include the Department of Justice.

Meanwhile, it is a great pleasure for us to welcome Mr. John Walsh who is a member of the board of directors of the Adam Walsh Child Resource Center. We thank you for coming.

We understand that Senator Hawkins has many commitments. In the Senate it is necessary to function characteristically on roller skates.

We do welcome you here. Your statement will be made a part of the record. In accordance with our custom, we ask you to summarize, leaving the maximum amount of time for questions.

STATEMENT OF JOHN WALSH, MEMBER OF THE BOARD OF DIRECTORS, ADAM WALSH CHILD RESOURCE CENTER, FORT LAUDERDALE, FLA.

Mr. WALSH. Thank you, thank you in particular, Senator Specter, for the opportunity to testify today.

I would like to commend Senator Hawkins and yourself on your efforts on behalf of missing children and the Missing Children Act in particular. It is a piece of legislation that I feel is a long time in coming.

I will try to synopsize my testimony for you. I may read from a few portions of it.

Some of you may be familiar with the details of our particular tragedy. As painful as it is for me to reiterate it, I will try to be brief. What is done cannot be undone but collectively, we may be able to save someone else.

On July 27, our only beloved 6-year-old son, Adam, was abducted from the Sears store in the Hollywood Mall as his mother stood three aisles away, making a purchase as Adam was watching a video game.

What followed has been termed the largest manhunt in the history of Florida. We were determined not to sit at home, hysterical and unable to help our son, but to do everything in our power to try to get him back. This supreme effort was conducted by close friends, partners, business associates, and concerned people who were caught up in the trauma of looking for a 6-year-old boy. During this time, the harsh and stark reality of the frustrations of looking for a missing child became increasingly apparent as each minute passed. As we set up a command headquarters in the Hollywood Police Station we realized the massive efforts of the Hollywood Police were limited in reality to their jurisdictional boundaries.

After close investigation, the detectives determined that most likely Adam had been abducted, as Adam was a superior student in a private school, a member of his Tee-ball team, allstar in his first

year at 6½ years old, and according to his three teachers and his classmates a very disciplined little boy with great respect for figures of authority. It is very likely that he might have followed the orders of a security guard and thought he was part of a group ordered to leave the store as the consensus of opinion is that he would never have left the store on his own. He had traveled extensively with my wife and me and had never been lost or wandered away from us on any occasion. He had attended private school and was brought to school each morning and picked up at 3 p.m. He had never had a strange babysitter and was always looked after by my mother, who still lives with us, and by my younger brother.

After many false sightings and many leads, the Hollywood Police are still baffled by the developments in the case and the lack of clues.

Because of the difficulty and oftentimes, lack of cooperation between different police agencies, members of my office staff spent 3 days and nights in my office contacting by phone every police and sheriff's department throughout the State of Florida and personally mailing five flyers to each office.

After 3 days of calls, it was determined that 70 percent of the police agencies in the State of Florida had not even heard of Adam's disappearance. When I queried the Hollywood Police on what had been done, they informed me that Adam's name had been entered in the NCIC and that his name had been put on the wire to the various States. When I looked at the wire that had come into the Hollywood Police, in the course of about 4 or 5 hours there were 55 messages on the wire. They had not even looked at these messages because of the huge amount of caseloads and of the search for Adam in their own jurisdiction.

I sat and listened on the phone as leads came in and the Hollywood Police detectives called various police agencies throughout the State of Florida and through the rest of the United States. I listened in amazement as detectives said: "I cannot go out and research this sighting. I have got 30 cases on my desk. I do not have the time to do it. I will try to get to it tomorrow."

It was incredible for me to hear someone so uninvolved on the other end of the line telling me they could not possibly take the time to check out and see if the sighting of a 6-year-old blond boy might be that of my son. I started to realize the terrible inequities in our system. The Hollywood Police continued their round-the-clock efforts as their fine detective bureau followed every possible lead. Many surrounding police agencies and other police agencies throughout Florida cooperated and some others politely ignored the problem.

We appeared on the "Good Morning America" show at 8 a.m. on August 11 to plead for Adam's safe return and for all to recognize the problem of missing children, and upon our return to the hotel at 11 a.m. we were informed that the remains that were found in the Vero Beach canal were definitely that of our beloved son, Adam. His decapitated head was found that morning at 6:30 and the unending nightmare had now become a reality.

Realizing that there is nowhere you can go or nothing you can do to soothe the wounds, we returned to Hollywood, Fla., to find that while we were gone, we had received over 22,000 sympathy letters,

donations, mass cards, trees donated in Israel, and various other expressions of condolences, as well as thousands of calls.

We have determined that although we would never be able to find any answers to Adam's death, that in our minds, he would not die in vain. We thought that the best way to deal with our grief was to do something for the rest of the missing children in the United States. With the donations that we received, we set up the Adam Walsh Outreach Center for Missing Children and proceeded to tell the story of missing children to a nation that is obviously unaware that this problem exists.

After meeting with some of the mothers of missing children, and with the horror of Adam's death in the back of our minds, we can never forget the looks on their faces as they still search for their children, determined that no matter what the cost, emotionally or financially, that they will find them. In most cases, this is a hopeless and lost cause.

It is certainly evident the priorities of this great country are in some disorder. A country that can launch a space shuttle that can return to the Earth and take off again, a country that can allocate millions of dollars to save a small fish, threatened with extinction, in the Tennessee Valley River but does not have a centralized reporting system or a nationwide search system for missing children, certainly needs to reaffirm the very principles that this country was founded on, namely, personal freedoms.

In order not to appear to the general public as some grief-stricken, deranged people, we were determined to get what facts were available in the best possible order, hoping to present them to someone. Although our hearts are broken, we are bound and determined that our story would be heard on behalf of the other little children that are out there at this very moment, afraid, confused, terrified, and wondering when mommy and daddy or whoever is going to help them. After contacting and speaking with many of the 20 or so individual missing children agencies throughout the country, it appears that statistics indicate that there are over 150,000 individual children missing each year. Approximately 100,000 of them are runaways, and children snatched by ex-parents. The unbelievable and unaccounted for figure of 50,000 children disappear annually, and are abducted for reasons of foul play. One only has to look at some of the past incidents:

1971–74, Houston, Tex., 22 bodies, unsolved.

1974–78, Theodore Bundy, State of Florida, suspected and admitted to over 100 murders.

1972–78, John Wayne Gacy, 28 victims, many of those victims being young boys or teenage boys listed by police as runaways in spite of the fact that their parents pleaded that their children had no reason to run away.

Atlanta, Ga., we are all very familiar with that situation, 27 bodies.

Los Angeles, the freeway killer just convicted of sexually molesting and mutilating 23 young men.

Senator SPECTER. Do you think that if the ideas embodied in Senator Hawkins' legislation had been in effect, that it would have had any impact on the Atlanta situation?

Mr. WALSH. It might have. It is a proven fact that the Atlanta police did not institute an investigation until 17 bodies were put together and there was some correlation in the problem of the children.

The head of the violent criminal apprehension program in Maryland said if there was a national clearinghouse to exchange information they might have been able to stop Theodore Bundy at possibly 10 deaths. He readily admitted that he roamed throughout the United States, from State to State.

The existence of the Rene Guyon Society in California, reporting to have 5,000 members who have claimed to have each deflowered a child under 8. Their motto is "Sex by 8 before it is too late."

In May 1977, the first meeting of the International Pedophilic Information Exchange, held in the country of Wales. It advocates a change in the laws to permit sex between adults and "consenting children," although such permission is a legal impossibility since children are not capable of consenting.

And then there is the organization known as NAMBLA, "North American Man-Boy Love Association," who have been arrested on various occasions for exchanging illegal Polaroid pictures of young males performing sex acts on older men through the mails.

For us personally, the nightmare continues. Two possible, but not probable, suspects in Adam's case are now in custody. The first suspect recently raped and bludgeoned a 6-year-old boy and left him unconscious near railroad tracks in a remote area of Florida. The boy subsequently died in the hospital, never regaining consciousness. In the effects of the suspect was found a diary logging and evaluating, in his own perverse terms, the homosexual rape, assault, and possible murder of 25 victims, young boys ranging in age of 10 years and younger. The acts of violence were carried out throughout two States in the last 2 years.

A second suspect in custody in an Eastern State, a twice convicted child molester on parole, had newspaper articles concerning Adam's tragedy pasted throughout his room. There were approximately 45 incidents having occurred throughout four States during a 3-year period as described by the suspect. Subsequently, in a miniwarehouse the gruesome articles of his 20-year career were discovered.

There were tape recordings of him beating and sexually molesting young boys. He had torture equipment and correspondence with other child molesters. As I listened to the tapes I saw tears in the eyes of six street-wise, supposedly hardened homocide detectives. I continued to listen to the screams, cries, and pleadings of those young voices, hoping against hope not to hear the sounds of my own son's voice; and I became physically ill. I will never be able to forget those cries, nor thoughts of the parents who are still wondering where their children are.

While in seclusion in Ithaca, N.Y., Cornell University made available to us their microfilm laboratory and we researched this problem by means of newspaper, magazine, and statistical reports.

According to The New York Times, Sunday, July 30, 1933, headline: "J. Edgar Hoover Heads New Crime Bureau, a Division Created by President Roosevelt Will War on Kidnapers." Again, the New York Times, November 4, 1934: "The Lindberg Law and the

Activity of Federal Agents Threaten To Kill Kidnaping." Front page, Saturday, July 30, 1933, the New York Times: Federal Warfare Against Kidnaping Widens the Range—Roosevelt Plans New Legislation, National Police is Talked as Public Opinion Backing the Crusade Gains Strength."

Senator SPECTER. Your basic point is that the Federal attack on kidnaping was successful?

Mr. WALSH. My basic point is that the FBI has lost sight of their kidnaping activity. I am not here on a witch hunt or to condemn the FBI.

Senator SPECTER. Why do you say that?

Mr. WALSH. I researched the Federal kidnaping laws as relates to my son's kidnaping and the Federal kidnaping statute says that the FBI will enter a case if there is proof of crossing a State line, a ransom note or otherwise. Obviously over the years their priorities have been dictated in other matters and they have chosen to effect the otherwise.

I am a realist and my first feelings were extremely bitter because they did not enter Adam's case. I realize that it is a State and local matter.

Senator SPECTER. Was there a request made for the FBI to enter the case?

Mr. WALSH. Yes, there was. Paula Hawkins and several other Congressmen, Jack Kemp and others made the request.

Senator SPECTER. And all to no effect?

Mr. WALSH. All to no effect. They said they were monitoring the situation and they had not received a ransom note. Obviously 6-year-old boys do not get on the bus to Idaho, especially children of the background of Adam. That is not the issue and I do not mean to gloss over that.

We have continued our efforts to make this country aware of this ever-growing problem. We have appeared twice on the Good Morning America show, on the Phil Donahue show entitled "Missing Kids" and Ted Turner's cable news network and various magazines and publications and we have testified before the hearings on the Senate level before the Subcommittee on Investigations and General Oversight and in the House of Representatives before the Subcommittee on Civil and Constitutional Rights, chaired by Don Edwards of California. Everywhere we have gone, appeared, or spoken we have met parents of missing or murdered children. We have received thousands of letters of support through the mail.

Incredibly, it took three meetings with the 26 different police agencies in our county alone to convince them that we were offering them a free computer that they could use to cross-reference unidentified bodies and missing children. Each one thought that we would be taking jurisdictional power or possibly moneys from their budgets but when we finally convinced them that this was a necessary workable system at their disposal they have all realized that the time has come for some system in our county.

As we have traveled around this country, I have interviewed various police agencies in the States of New York, Illinois, Indiana, Kentucky, Florida, Georgia, California, and Louisiana as to how they search for missing children. The one unanimous fact that sur-

faces continuously is that there is no system for looking for missing children.

I have talked to coroners by phone and through the mail from around the country and come up with the same consensus of opinion: There is virtually no system for identifying unidentified bodies in this country.

We have testified before the Florida Legislature in Tallahassee, and heard testimony from the president of the Florida Sheriff's Association and the president of the Florida Chief of Police where they admitted after researching this problem that there was no statewide system, let alone nationwide system. It is evident that the priorities of this country are still out of order.

Possibly the most startling fact of all is that I was under the assumption that once an effort was made to expose the inequities in a system and to bring its attention to the legislators of this United States that something would be done and some steps would be taken to initially address this ever-growing problem. I believe the main reason I am here today is to try to present some concrete facts that I have amassed recently in light of the fact that the Justice Department has come out in opposition to the missing children's bill and, in particular, their letter from Assistant Attorney General Office of Legislative Affairs, Robert A. McConnell to the Honorable Strom Thurmond, chairman of the Committee on the Judiciary. Having been an active registered voter, a Republican, and a strong believer in the American way, you can imagine my feelings and the tears that came to my eyes when I read that letter and the words "therefore the department recommends against enactment of this bill." But since that time I have been assisted by members of the American Bar Association, the National Conference of Christians and Jews, and the National Association of District Attorneys in preparing my facts and figures to refute the Justice Department's opposition to this bill.

I will attempt to address their three oppositions to this bill in the most professional and factual attitude available to me as a private citizen. I am not a lawyer, I do not have the resources to research a large staff, but I have the support of these various organizations and many, many concerned individuals who have tried to help me compile the facts and some logical courses of action that hopefully this committee will take.

Since the FBI's Uniform Crime Report does not break out statistics on missing children, murdered children, sexually abused children, or adolescent rapes, the compilation of statistics is very difficult. But we are appalled at what we have put together at this time. The Justice Department opposes the missing children's bill in three areas. This is absolutely ludicrous. The California system is far superior to the Colorado system. I spoke recently with Robert Don Broker, chief of the investigations for the Los Angeles coroner's office. Since 1979 they have had the statewide system. He said they have had 600 to 700 unidentified bodies in Los Angeles County alone. Last year they were able to identify all but 30. Those 30 were from out of State. Can you imagine the rest of the country, how many unidentified? He strongly endorses the Missing Children Act, as many coroners do. They say there has to be a national clearinghouse.

We were contacted 2 weeks ago by parents from Illinois who had been searching for their daughter and had spent their entire life savings. Her body was in a Texas morgue for 87 days, with no way of contacting them. Through their appeals the coroner was watching television and said, I have the body of the young girl.

The State of Florida has a system. Prior to Adam's death there was no system within the State except coroners exchange mail every 6 months. I would have had to wait 6 months before being notified if he had been found in another county. As I left Broward County we had 14 unidentified dead that were obviously sent from somewhere else or someone was searching for them. The FBI only sent back fingerprints of criminals.

Senator SPECTER. We are running past the noon hour and I would ask if you can, to summarize. I must go to the floor before we adjourn.

Mr. WALSH. The second point that the Justice Department objects to is the codification in the bill. You heard Senator Hawkins say the codification was derived from their code. We have amended the third objection to the—by the Justice Department, the parents access the NCIC. The NCIC cannot be accessed by parents. We are saying that—there be a third party form. You get it, take it to the local police, take it back to the FBI and let the FBI know and the parents have peace of mind knowing that their children's name is in the system.

Now if you have a name, a social security number or a driver's license you can get into NCIC. If you have a body of a 6-year-old boy or the burnt remains of an 80-year-old man, you cannot access that back. The Justice Department and the FBI are not telling the legislatures that.

I will sum it up by saying that this is a good piece of legislation. This is a simple piece of legislation. It asks for the establishment of a national clearinghouse for unidentified dead and it asks for the FBI to break out a section of that computer. They have testified they can do it and keep the statistics on missing children. They said that the cost would be $340,000. I have individuals in south Florida who would donate that money to the FBI.

We must speak of the children. They have no voice, they do not vote or pay taxes, so they have no power, no platform or a lobby anywhere. In many cases they have no voice because they are afraid or because they have tried to speak and are dead. This bill is just a small step in attempting to address this problem.

As you sit here probably shaking your heads and wondering what we can do, please take this small step. Urge every parent to challenge suspicious people with children. Fingerprint your own children because there are no records of children's fingerprints. Keep dental records. Be aware. But most of all, if you are not so sure of your course of action or whether you have the time or courage, think of the terror in that little person's mind as he or she is being abducted, terrorized, molested, or murdered. As their mind screams for Daddy, Mommy, Mr. Policeman or some imaginary super hero and then there is no one. Just because you were fortunate to make it to adulthood is no excuse to put these problems, no matter how hard to deal with, out of your life.

Our country was based on the belief of personal freedoms and we are denying the personal freedoms of our children by our inaction. I believe that we can effect social change: and the members of this committee can start the wheels of action. I think of all the searching parents. And I know where they are because I have been there.

When I become discouraged or find that the political process moves too slowly, and the victories and the battle for children's rights are few and far between, I think of Adam and how much compassion and respect he had for adults. I was proud to be his father and I continue in his memory. I urge you on his behalf and that of all those that are still alive to move this bill to speedy passage.

Thank you.

Senator SPECTER. Thank you very much, Mr. Walsh, for that very moving testimony. I agree with you, as I indicated earlier when Senator Hawkins was here about the necessity for the legislation and I think it will come into existence. The Department of Justice is currenty revising their view and there are very extensive discussions in process and I believe there will be administration backing and I believe that the legislation will be enacted.

Mr. WALSH. It has already been amended, Senator. I thank you very much for this opportunity.

[The prepared statement of Mr. Walsh follows:]

PREPARED STATEMENT OF JOHN WALSH

Honorable Chairman:

I appreciate the opportunity to testify before this subcommittee as I feel I have a story that should be heard by all concerned Americans, and in particular, the very interested parties in your subcommittee. I am going to say, in the subject I will be dealing with is unpleasant to say the least. The time I have here today will hardly be a start in covering the broad range of cause and affect that relates to the problem of child exploitation. But what I have to say is a harsh reality. It is a matter of dealing with priorities and the conscious awareness of the American public and the priorities of it's Legislators. What has happened to my wife and I may never quite be grasped by the individuals here; I pray that it never does. It is like explaining a color that I have seen but you never have. It has happened thousands of times before and is happening right now and is so unbearable that I don't want to think about it, let alone deal with it. Most people think it could never happen to them, it always happens to someone elses children; it can't happen to me. But it does, it did to us and it can happen to you or your loved ones as there are members in this Senate that have experienced the murder of a child. Hopefully you have invited me here, in order to become more aware and that you have the courage to do more than shake your head and make a cautious determination that more investigation of this growing problem is needed.

One incidence of this terrible tragedy is enough to warrant action by all responsible individuals in this country, in particular, it's Legislators. Senate Bill 1701 is but a baby step but a positive one in aleviating some of the pain of this national tragedy.

Some of you may be familiar with the details of our particular tragedy. As painful as it is for me to reiterate it, I will try to be brief. What is done cannot be undone but collectively, we may be able to save someone else. I reside in Hollywood, Florida and have been married ten years to my college sweetheart, Reve. I am a partner in a firm building a new hotel on Paradise Island, Nassau, Bahamas. I'm responsible for all of the sales, marketing and public relations for this deluxe new $28 million hotel scheduled to open April 15, 1982.

On July 27th our only beloved six year old son, Adam, was abducted from the Sears store in the Hollywood Mall as his mother stood three isles away, making a purchase as Adam was watching a video game.

What followed has been termed the largest man hunt in the history of Florida. We were determined not to sit at home, hysterical and unable to help our son, but to do everything in our power to try to get him back. This supreme effort was conducted by close friends, partners, business associates and concerned people who were caught up in the trama of looking for a six year old boy. During this time, the harsh and stark reality of the frustrations of looking for a missing child became increasingly apparent as each minute passed. As we set up a command headquarters in the Hollywood Police Station we realized the massive efforts of the Hollywood Police were limited in reality to their jurisdictional boundaries. After paging Adam in Sears, the Hollywood Police were notified and immediately proceeded to search for Adam as they made the conscious determination that a six year old boy does not usually run away. Throughout the entire ordeal, the Hollywood Police have to be commended for their cooperation and their sincere and massive effort. All Hollywood uniformed police were put on foot as well as every Hollywood detective from burglary, narcotics, homicide, etc., joined the search for Adam. Hundreds of volunteers belonging to the Citizens Crime Watch, as well as thousands of individuals joined the search. The Florida Fish and Game Commission, as well as the Florida Park Rangers searched the area within a fifty mile radius. Helicopters searched day and night; private planes joined the search during the daytime. Groups searched day and night; private planes joined the search during the daytime. Groups such as the "Four by Fours" and "Off the Road Vehicle Club" with fifty members searched every night in areas that were unaccessable to the police. Divers and boats joined the search in canals and quarries. An initial reward of $5,000.00 was offered and that was rapidly raised to $100,000.00 by pledges from concerned business associates, friends, and strangers. The Vice President of Delta Airlines called from Atlanta and offered to send 300 people down to join the search. Both Eastern Airlines and Delta Airlines helped by delivering posters of Adams' disappearance to airports and ciites all over the United States. At the final count, over 1 million posters were printed and delivered throughout the United States. A private postal delivery service hand delivered 30,000 posters each day to different areas throughout Dade and Broward Counties in

South Florida. After approximately three days, the organized search was abandoned and it was determined that Adam was apparently kidnapped.

After close investigation, the detectives determined that this was most likely the case, as Adam was a superior student in a private school, a member of his Tee-ball team, all star in his first year at six and a half years old, and according to his three teachers and his classmates a very disiplined little boy with great respect for figures of authority. It is very likely that he might have followed the orders of a security guard and thought he was part of a group ordered to leave the store as the concensus of opinion is that he would never have left the store on his own. He had traveled extensively with my wife and I and had never been lost or wandered away from us on any occasion. He attended private school and was brought to school each morning and picked up at 3:00 pm. He lived across from a park and was not allowed to go to the park by himself nor ride his bicycle in the street. He had never had a strange babysitter and was always looked after by my mother, who still lives with us, and by my younger brother, 23 years years old. After many false sightings and many leads, the Hollywood Police are still baffled by the developments in the case and the lack of clues.

Because of the difficulty and often times, apparent lack of cooperation between different police agencies, members of my office staff spent three days and nights in my office contacting (by phone) every police and sheriff's department throughout the state of Florida and personally mailing five flyers to each office. After three days of calls, it was determined that 70% of the police agencies in the state of Flordia had not even heard of Adams disappearance. When I queried the Hollywood Police on what had been done, they informed me that Adam's name had been entered in the NCIC and that his name had been put on the wire to the various states. When I looked at the wire that had come into the Hollywood Police, in the course of about four or five hours there were 55 messages on the wire. They had not even looked at these messages because of the huge amount of case loads and of the search for Adam in their own jurisdiction. I sat and listened on the phone as leads came in and the Hollywood Police Detectives called various police agencies throughout the state of Florida and through the rest of the United States. I listened in amazement as detectives said "I can't go out and research this sighting. I've got 30 cases on my desk. I don't have the time to do it. I'll try to get to it tomorrow." It was incredible for me to hear someone so uninvolved on the other end of the line telling me they couldn't possibly take the time to check

out and see if the sighting of a six year old blond boy might be that of my son. I started to realize the terrible inequities in our system. The Hollywood Police continued their round-the-clock efforts as their fine detective bureau followed every possible lead. Over 60 psychics, from around the country, many recommended by certain police agencies, as well as psychics who had received notoriety working on the Atlanta child murderers, and in Los Angeles on the Freeway killer murders, joined the case. Many surrounding police agencies and other police agencies throughout Florida cooperated and some others politely ignored the problem.

On August 10th, despite a continuing Air Traffic Controller's strike, we flew to New York to await an 8:00 am appearance (on the following day) on the "Good Morning America" show. At 6:30 that morning, I was notified (in our hotel room as my wife slept) that a young boy's head had been found in a canal, in Vero Beach, and that the remains might possibly be that of Adam but there was need to obtain his dental records and deliver them to Vero Beach. Without informing my wife, we went to the "Good Morning America" show to appear. Host, David Hartman asked me if we wanted to go on and continue with the show and I informed him that even if the remains were Adam, I felt that we should tell our story for all the other missing children that we had become aware of. While in New York, we met Mrs. Julie Patz, the mother of five year old Eaton Patz and other members of the Child Find organization that had been in constant phone contact with other missing children's organizations throughout the country. The problem with Adam's disappearance and abduction was ever on our minds but it became more apparent to us of a greater overall problem.

We appeared on the "Good Morning America" show at 8:00 am to plead for Adam's safe return and for all to recognize the problem of missing children, and upon our return to the hotel at 11:00 am we were informed that the remains that were found in the Vero Beach canal were definitely that of our beloved son, Adam. The unending nightmare had now become a reality as we flew back to Florida.

On August 15th, a special "Mass of the Angels" was held for Adam at St. Maurice's Catholic Church and over one thousand people from the surrounding area attended the mass. My cousin, Father Michael Convoy, (a pastor in upstate New York) read the

eulogy, as a children's choir sang in celebration of Adam's short and wonderful life. After conducting one final press conference and thanking the hundreds of thousands of people that had donated their time to look for Adam, the cooperation of the Hollywood Police and the media and all the concerned citizens throughout the rest of the United States, we traveled to a friend's home in upstate New York to attempt to deal with our grief on a personal basis.

Realizing that there is nowhere you can go or nothing you can do to soothe the wounds, we returned to Hollywood, Florida to find that while we were gone, we had received over 22,000 sympathy letters, donations, mass cards, trees donated in Israel, and various other expressions of condolences, as well as thousands of calls.

We have determined that although we would never be able to find any answers to Adam's death, that in our minds, he would not die in vain. We thought that the best way to deal with our grief was to do something for the rest of the missing children in the United States. With the donations that we received, we set up The Adam Walsh Outreach Center for Missing Children and proceeded to tell the story of missing children to a nation that is obviously unaware that this problem exists. We also realize that very few families in the United States could get the help financially, as well as emotionally, that we did. We came to the realization that many of my business associates and close friends pooled all their efforts in the belief that collectively we could get Adam back. Since then, we have heard from hundreds of people with missing children, as well as people with murdered children, and realize that the vast majority of these people did not receive the support, financially, or emotionally, or the exposure that we did. After meeting with some of the mothers of missing children, and with the horror of Adam's death in the back of our minds, we can never forget the looks on their faces as they still search for their children, determined that no matter what the cost, emotionally or financially, that they will find them. In most cases, this is a hopeless and lost cause.

It is certainly evident the priorities of this great country are in some disorder. A country that can launch a space shuttle that can return to the earth and take off again, a country that can allocate millions of dollars to save a small fish, the snail darter in the Tennessee Valley River, threatened with extinction, but does not have a centralized

reporting system or a nationwide search system for missing children, certainly needs to reaffirm the very principles that this country was founded on, namely, personal freedoms.

In order not to appear to the general public as some grief-stricken, deranged people, we were determined to get what facts were available in the best possible order, hoping to present them to someone. Although our hearts are broken, we are bound and determined that our story would be heard on behalf of the other little children that are out there at this very moment, afraid, confused, terrified, and wondering when mommy and daddy or whoever is going to help them. After contacting and speaking with many of the twenty or so individual missing children agencies throughout the country, it appears that stastics indicate that there are over one-hundred-and-fifty-thousand (150,000) individual children missing each year. Approximately one-hundred-thousand (100,000) of these are runaways, and children snatched by ex-parents. The unbelievable and unaccounted for figure of fifty-thousand (50,000) children disappear annually, and are abducted for reasons of foul play. One only has to look at some of the past incidences; 1971-1974, Houston, Texas 22 bodies, unsolved; 1974-1978, Theodore Bundy, 31-years old, suspected and admitted to over 100 murders; 1972-1978, John Wayne Gacey, 28 victims, many of those victims young boys or teenage boys listed by police as runaways in spite of the fact that their parents pleaded that their children had no reasons to run away; Atlanta, Georgia, we are all very familiar with that situation, 27 bodies; Los Angeles, the "Freeway Killer" just convicted of sexually molesting and mutilating 23 young men; Newark, New Jersey, 5 young boys in a playground in 1975, still unsolved; Detroit, the famous "Snow-Killer", victims young males and females, unsolved; the existence of the Rene Guyon society in California, reporting to have 5,000 members who have claimed to have each deflowered a child under 8. Their motto; sex by 8 before it is too late. In May, 1977, the first meeting of the International Pedophilic Information Exchange, held in the country of Wales. It advocates a change in the laws to permit sex between adults and "consenting children", although such permission is a legal impossibility, since children are not capable of consenting. The organization known as NAMBLA, "North American Man-Boy Love Association", who have been arrested on various occassions for exchanging illegal Polaroid pictures of young males performing sex acts on older men through the mails.

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While in seclusion in Ithaca, New York, Cornell University made available to us their microfilm laboratory and we researched this problem by means of newspaper, magazine and statistical reports. Most surprising is that the uniform crime report produced annually by the FBI has no official statistics on kidnapping, child abuse, homosexual rape or missing children. And after researching the Federal Kidnapping Statute it appears that the FBI has arbitrarily decided to interpret the Statute in their own way. A quote from the Statute: an FBI investigation is authorized when "there is information or an allegation that a person has been unlawfully abducted and held for ransom or OTHERWISE". We also found proof in past magazine articles (this can be substantiated by the Dee Scofield group also) that the FBI entered into the case of Fran Freluche (in foal to Secretariat), a $500,000 horse that disappeared from the Clayborne Farm

in Paris, Kentucky. According to FBI spokesman, Bill Cheek in Louisville, "we are investigating and assuming we have jurisdiction because of the value of the horse. If we never prove their was interstate travel, then, of course it's a local matter." It seems extremely ludicrous that the FBI would enter the case of a $500,000 horse where no ransom note was ever received or proof of it crossing the state line.

According to the New York Times, Sunday, July 30, 1933 - Headlines - "J. EDGAR HOOVER HEADS NEW CRIME BUREAU, A DIVISION CREATED BY PRESIDENT ROOSEVELT WILL WAR ON KIDNAPPERS". Again, the New York Times, November 4, 1934 - "THE LINDBERG LAW AND THE ACTIVITY OF FEDERAL AGENTS THREATEN TO KILL KIDNAPPING". Front page, Saturday, July 30, 1933, New York Times, "FEDERAL WARFARE AGAINST KIDNAPPING WIDENS ITS RANGE - ROOSEVELT PLANS NEW LEGISLTION, NATIONAL POLICE IS TALKED AS PUBLIC OPINION BACKING THE CRUSADE GAINS STRENGTH".

It is obvious from our research that one of the main objectives of the formation of the FBI was certainly to fight crime on a federal level, but according to all articles and research it was primarily created to assist in the war on kidnapping. It appears that during the time since 1933 when the FBI and J. Edgar Hoover declared war on kidnapping because of the notoriety of the Lindberg case, that public opinion has not been strong enough to force the FBI back into what was originally intended and formed to do. Granted, some police agencies are excellent and well equipped to look for missing and abducted children in Their Area. Once a child is taken from the jurisdiction of the local police force, virtually no one looks for him. If he is abducted in a rural community (that is served by sheriffs) possibly one sheriff may take the report; then the parents go back home and wait and wait and wait. The scenario is repeated continually, daily throughout the United States. This is not a local proble; this is not a regional problem; THIS IS A NATIONAL PROBLEM. Recently headlines and news stories have been full of the effect of government budget cuts. There are federal statistics that tell us exactly how many families these budget cuts will effect. There is no federal or state agency that can tell us exactly how many families are affected by missing children. Frankly, knowing the grief my wife and I feel I am a bit afraid of the collective grief the accumulation of these facts will have. Certainly these facts will appall some, embarrass others and sadden us all. As always happens, we will search for a source of blame...but that blame increases each day that something is not done.

We have continued our efforts to make this country aware of this ever growing problem. We have appeared twice on the Good Morning America Show, on the Phil Donahue Show; entitled "Missing Kids" and Ted Turner's Cable News Network and various magazines and publications and we have testified before this adherings on the Senate level before the Subcommittee on Investigations and General Oversight and in the House of Representatives before the Subcommittee on Civil and Constitutional Rights, chaired by Don Edwards of California. Everywhere we have gone, appeared or spoken we have met parents of missing or murdered children. We have received thousands of letters through the mail. We have founded an organization in the state of Florida called "The Adam Walsh Resource Center for Children". Since the founding of that organization, we have put together private funds and started our own computer in Broward County. Incredibly it took three meetings with the 26 different police agencies in our county alone to convince them that we were offering them a free computer that they could use to cross reference unidentified bodies and missing children. Each one thought that we would be taking jurisdictional power or possibly monies from their budgets but when we finally convinced them that this was a necessary workable system at their disposal they have all realized that the time has come for some system. As we have traveled around this country, I have interviewed various police agencies in the states of New York, Illinois, Indiana, Kentucky, Florida, Georgia, California and Louisiana as to how they search for missing children. The one unanimous fact that surfaces continuously is there is no system for looking for missing children. I have talked to coroners by phone and through the mail from around the country and come up with the same consensus of opinion; there is virtually no system for identifying unidentified bodies in this country. We have testified before the Florida Legislature in Tallahassee, and heard testimony from the President of the Florida Sheriff's Association and the President of the Florida Chief of Police where they admitted after researching this problem that there was no statewide system let alone nationwide system to aid in the search for missing children or unidentified bodies. They recommended that a task force be set up in the state of Florida to examine this problem. The state of Florida Legislature has passed a bill entitled "The Adam Walsh Memorial" which urges the Congress of the United States and in particular, the President to support the Missing Childrens Act and for it's speedy passage.

Possibly the most startling fact of all is that I was under the assumption that once an effort was made to expose the inequities in a system and to bring its attention to the Legislators of this United States that something would be done and some steps would be taken to initially address this ever growing problem. I believe the main reason I am here today is to try to present some concrete facts that I have amassed recently in light of the fact that the Justice Department has come out in opposition to the Missing Childrens Bill and in particular, their letter from Assistant Attorney General Office of Legislative Affairs, Robert A. McConnell to Honorable Strom Thurman, Chairman Committee on the Judiciary. Having been an active registered voter, a Republican and a strong believer in the AMERICAN WAY, you can imagine my feelings and the tears that came to my eyes when I read that letter and the words "therefore the department recommends against enactment of this bill". But since that time I have been assisted by members of the American Bar Association, the National Conference of Christians and Jews, and the National Association of District Attorneys in preparing my facts and figures to refute the Justice Department's opposition to this bill.

I will attempt to address their three oppositions to this bill in the most professional and factual attitude available to me as a private citizen. I am not a lawyer, I don't have the resources to research a large staff but I have the support of these various organizations and many many concerned individuals who have tried to help me compile the facts and some logical courses of action that hopefully this committee will take.

Since the FBI's Uniform Crime Report does not break out statistics on missing children, murdered children, sexually abused children or adolescent rapes, the compilation of statistics is very difficult. But we are appalled at what we have put together at this time. The Justice Department, in their prepared brief, opposes the Missing Childrens Bill in three areas. Unidentified deceased persons; they recommend that they study the State of Colorado Pilot Project for a minimum of two years. Based on the conservative estimate of between 4-5,000 unidentified bodies in the United States a year, what do you tell the people who are searching for those 10,000 bodies that will be buried in John Doe graves in that two year period. In our investigation, we have found that the California system for identifying unidentified dead is superior to the Colorado system. The meeting in Miami, The NCIC Advisory Board recommended that the Missing Childrens Bill be passed and that a national clearing house for unidentified

dead be set up. Mr. Buckley, the head of the Colorado project, agreed on these matters. In the state of California, state law makes it mandatory for information on missing persons and unidentified dead be placed in a computer bank in Sacramento, the capital, and this has assisted the state in identifying all but 55 bodies that were previously listed as unidentified in the state of California. But what do you do if the unidentified body came from out of the state or was brought into the state and was murdered or died in the state. After talking to many coroners throughout the country, they have affirmed the consensus of opinion that someone somewhere is usually looking for those bodies and if they can't identify it within their county or possibly within their state what can they do; they do not have the resources to contact every coroner within the continental United States. There has to be some national clearing house. Again, the recommendation to wait two years is ludicrous. Time is of the essence and the people of the Colorado project and California have offered to come to Washington and sit with members of the Justice Department, Attorney General's Office and the FBI and work this out. We all know that the FBI is not expert in the homicides or autopsies or identifying unidentified bodies. What we are simply asking is that there be a national clearing house for information on unidentified dead so that the police agencies that do care could cross reference the statistics they have and the coroners that do care could cross reference the information they have throughout other states and possibly assist individuals who are searching for their loved ones. In their initial testimony before the House Subcommittee, the FBI stated that the set up of this system would not cost more than approximately $320,000, and that the unidentified dead file could be done through a manual filing system and the missing childrens information could be kept in the NCIC with just an additional cost for software programming and, of course, the maintenance of the program. Many private individuals throughout the country have offered to pledge this minimal amount to the FBI in order for them to facilitate the setting up of this system.

Item #2; the codification of any missing person is language that is taken out of the existing statutes and in no way limits the FBI. This can be moderated and we seriously doubt that there will be any new categories of missing persons other than the ones that are stated in this bill and it gives just some guidelines for entering information into the NCIC. After speaking with many police individuals, it appears that the true story of the NCIC is not known by various people. We realize that this is a state and

local problem and should be researched first by the local and state authorities as they conduct the initial investigation. We also realize that the NCIC is underutilized and that many police agencies don't even know that it exists. But that is no reason for not having an unidentified dead or missing childrens section of the NCIC. What about the police agencies that are sophisticated enough to want to use it and do know that the NCIC exists. If only three police agencies use it and they locate two unidentified dead or one missing child for some searching parents, then to me the cost of the system is well worth it. If you relate it to a 2.7 million dollar tank or a 14 billion dollar space shuttle program, it is hard for me to comprehend that this system can't be set up. A little known fact by most individuals and by the individuals we have testified before on the two previous subcommittees is that the NCIC can only be accessed if you have a name, a social security number or a drivers license. If you have the body of an adolescent child, in 99% of the cases, they don't carry identification or have a social security number or a drivers license or have a name. **DEAD BODIES DON'T SPEAK.** Therefore, the ability of the NCIC to cross reference information for unidentified deceased and missing persons is nonexistent. Yes the FBI will testify that the NCIC does hold information on missing persons, but it cannot be accessed by concerned police officials whether they be local, state or whatever.

The third opposition of the Justice Department to the Missing Childrens Bill is the portion which seems, according to the Justice Department, to require that the FBI accept information directly from a parent, legal guardian, next of kin of the missing child or unemancipated person for entry into the NCIC. Believe me, with the collective brains of the various individuals involved, we could devise a system whereby parents can be guaranteed that their children's information has been entered into the NCIC. This part of the Missing Childrens Bill was proposed because of the fact that the findings of many individuals would go to their local police and the local police would never put the information into the NCIC. We have one case in particular where parents of a missing child in a rural community were told that everything was being done possible to assist in finding their missing child. When in truth, a uniformed policeman, because a detective was not available, came and took the information about their child and took it back to his agency and because he was leaving on vacation, as an oversight, left the report on his desk for four days. Finally the parents called the police station

and found out that the report had not been entered and that a detective had not even been put on the case. In discussion with those attending the Louisville Convention on Exploited and Victimized Children, 70% of the missing children in Search Magazine whose parents were told that their names had been entered in the NCIC were not. Yes we understand it is a local and state problem and that many police agencies aren't sophisticated enough to realize that the NCIC exists. But, it's little to ask for that small piece of mind of knowing that regardless of the sophistication of your local policemen, metro policemen, sheriff, state trooper or whatever, that your child's information has been entered into the NCIC and that it can be accessed by other police agencies or coroners throughout the country in the case that your child's body will be found. We realize the limitations of the FBI and realize that the actual number of field agents is smaller than the number of uniformed police of the Los Angeles Police Department. We are not asking the FBI or the Justice Department to look for missing children, we are not asking for them to assist in performing autopsies or locating relatives or loved ones of unidentified dead. We are simply asking that they acquire, classify, collect and disseminate information on missing children and unidentified dead to make if easier for coroners that do care and police officials that do care as well as parents who would like a little piece of mind that their children's information is in some national network. We are not proposing that parents of a missing child circumvent the local police or go directly to the FBI, which would impede the investigation by local police for "a variety of reasons" and would diminish the effectiveness of the NCIC. Official airline guide computer that keeps track of all the flight changes and price changes of the various airlines in the United States purges and makes over a 100,000 flight changes a year. In this modern day of advanced technology we know that the NCIC could be adapted to keep information on missing children and unidentified deceased and make this available so those who care could cross reference the system. We quote again one of the many statistics of unidentified bodies like the parents who spent their entire life savings searching for their daughter when her unidentified body lay for 87 days in the Dallas County Morgue. This is just one incident of the possibility of an unidentified body being buried in a John Doe grave.

At the last hearing when we testified with our County Medical Examiner, Dr. Ronald Wright, there were 14 unidentified bodies in the Broward County Morgue, four of them adolescents. In his testimony he stated that they were aware that there were people

out there searching for those bodies and that no one likes to bury someone in a John Doe grave. He also testified that there are many Medical Examiners and Coroners who do care and that they, at one of their national conventions, or just by word-of-mouth amongst each other would notify each other almost immediately that there was a national system that they could cross reference information on unidentified dead. Granted it would take a considerable amount of time and expense to educate the local and state police authorities throughout the country of a nationwide system, but there are those who would care enough to use it immediately and that, we believe, is justification in itself for this system.

According to U.S. News and World Report arrests were made in only 19% of serious crimes. Since 1960 the number of violent crimes has more than quadrupled. In 1980, 23,000 people died at the hands of murderes, up from 9,000 two decades earlier. The same year, 82,000 women were raped, up from 17,000 reported in 1960. More than half a million people were robbed, up from 108,000 and 650,000 plus were assaulted, up from 154,000. During this same 20 year period, crimes against property, burglary, larceny and car theft tripled causing billions of dollars in losses. Proponents had hoped that President Reagan, strong law and order advocate, would keep effective projects alive. But these hopes are all but dead as Reagan pushes ahead with his budget cutting campaign throughout the government. His anti-crime program is limited to a tightening of criminal law procedures. So not only is the American public the victim of serious and violent crimes on a continuous basis, there is little hope or solace left to those parents of the unspeakable nightmare of a missing child that they might never even claim the body of their child. Hundreds of thousands of people have written their Legislators and many members of this committee about the Missing Childrens Act. I always believed that our elected officials are aware of what their constituents wanted and that they had the ability and intelligence to determine our priorities.

We have been classified in the papers and by many people and interviews with friends as an "all American family". I don't know what that means, but I do know that prior to this incident with Adam, we were great believers in the United States of America. I have traveled throughout the world and seen the misery that people who live in other countries exist under and the oppression that many of them labor. My beliefs in this system have been shaken to the core. No matter how hard we try, we can't stop

thinking about how Adam must have felt in the hands of his abductor and the thoughts that went through his mind. Everyone, including us, would like to block out these thoughts of this beautiful six year old boy and remember him as the child he was. But, the reality of Adam's death is something that we have to deal with. All we have is part of him to cremate and we will spread those remains over the ocean that he loved so dearly. But what of the other parents? Many of whom are still searching and will never give up hope. And must deal with the constant horror of what has happened to their small children.

We must speak for the children; they have no voice, they don't vote or pay taxes, so they have no power, no platform or a lobby anywhere. In many cases they have no voice because they're afraid or because they have tried to speak and are dead. This bill is just a small step in attempting to address this problem. As you sit here probably shaking your heads and wondering what we can do, please take this small step. Urge every parent to challenge suspicious people with children. Fingerprint your own children because there are no records of children's fingerprints; keep dental records, be aware. But most of all, if you're not so sure of your course of action or whether you have the time or courage, think of the terror in that little person's mind as he or she is being abducted, terrorized, molested or murdered. As their mind screams for Daddy, Mommy, Mr. Policeman or some imaginary superhero and then there is no one. Just because you were fortunate to make it to adulthood is no excuse to put these problems; no matter how hard to deal with, out of your life. Our country was based on the belief of personal freedoms and we are denying the personal freedoms of our children by our inaction. I believe that we can effect social change and the members of this committee can start the wheels of action. I think of all the searching parents and I know where they are because I've been there. When I become discouraged or find that the political process moves too slowly, and the victories and the battle for children's rights are few and far between, I think of Adam and how much compassion and respect he had for adults. I was proud to be his father and I continue in his memory. I urge you on his behalf and that of all those that are still alive to move this bill to speedy passage.

Senator SPECTER. That concludes our hearing and we now stand adjourned.

[Whereupon, at 12:05 p.m., the subcommittee recessed to reconvene subject to the call of the Chair.]

APPENDIX

STATEMENT OF

HOWARD A. DAVIDSON, DIRECTOR
NATIONAL LEGAL RESOURCE CENTER
FOR CHILD ADVOCACY AND PROTECTION

on behalf of the

AMERICAN BAR ASSOCIATION

before the

SUBCOMMITTEE ON JUVENILE JUSTICE

of the

COMMITTEE ON THE JUDICIARY

of the

UNITED STATES SENATE

concerning the

MISSING CHILDREN ACT (S.1701)

APRIL 1, 1982

Mr. Chairman and Members of the Subcommittee:

The American Bar Association appreciates the opportunity to present its views on the proposed Missing Children Act (S.1701). I am Howard Davidson, Director of the Association's National Legal Resource Center for Child Advocacy and Protection. This Center is a program of the ABA Young Lawyers Division, and has been in existence since 1978.

The work of the Center focuses on legal aspects of child welfare matters, especially the abuse and exploitation of children[1] (see Appendix A). It is actively involved in the reform of laws, legal procedures, and judicial practices related to the protection of children, and in 1980 and 1981 it developed resolutions passed by the Association's House of Delegates which call for improved efforts to assure the protection of children from abuse and neglect.

The children who would be positively affected by the passage of the Missing Children Act are truly among those most vulnerable to maltreatment. Whether they are abducted by strangers, are runaways, or are "snatched" by non-custodial parents, all of these children are potentially at risk of serious inflicted harm.

Our Association has expressed its particular concern over the harmful effects that child snatching has on children. At the request of the ABA's Family Law Section, the House of Delegates in 1978 adopted five resolutions seeking a comprehensive solution to this problem, including a call for the Justice Department to make its resources available to the custodial parent and to "provide such assistance as is available for the location and apprehension of the child." Through our Center, the ABA has maintained a special Child Custody Project since December, 1980 to foster effective

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[1] On November 5, 1981 I testified before this Subcommittee concerning the use of children in pornography and prostitution.

implementation of the laws applicable to interstate and international child custody disputes.

Since January, 1967 the Federal Bureau of Investigation has operated The National Crime Information Center (NCIC). By the Bureau's own description, the NCIC (which would be greatly impacted by the passage of S.1701) has been a resounding success. Through Annual Reports of the Attorney General of the U.S. and the FBI's NCIC Newsletter, we have noticed that the number of "records" stored in NCIC has risen from about 2.8 million at the close of FY 1971, to 4.2 million in 1974, to over 6 million in 1981, to almost 9.6 million as of December 1, 1981. Use of the NCIC by state and local law enforcement agencies has also more than doubled, from an average of 67,000 daily system "transactions" in 1971, to more than 148,000 daily in 1974 (we have been unable to get more recent NCIC daily transaction figures).

When requests for NCIC information from state or local police or sheriff's departments are made, they often result in the successful matching of data and thus the recovery of stolen property, the apprehension of a wanted felon, or the identification of a missing person. These positive responses are referred to by the FBI as "hits," and they rose from about 600 daily in 1971 to about 900 daily in 1974 (again, we do not have more recent daily data).

A breakdown of recent records in the NCIC computer, however, shows that they too infrequently relate to missing persons. In December, 1981 the FBI reported the following breakdown of just what constituted the approximately 9.6 million records in NCIC:

(1) Stolen Securities (24.8%)
(2) Criminal Histories (20%)
(3) Stolen and Recovered Guns (17.8%)
(4) Miscellaneous Stolen Property (16.3%)
(5) Stolen and Felony Vehicles (12.5%)
(6) Stolen License Plates (6.1%)
(7) Wanted Persons (2%)
(8) Stolen Boats (less than three/tenths of one percent)
(9) Missing Persons (less than three/tenths of one percent)

No FBI data tells us where missing children are in this system. How many are listed in the computer? We have been unable to get a

more recent breakdown of the records in NCIC, but we fear that missing persons and in particular children are still grossly underrepresented.

In fairness to the FBI, it is claimed that a "missing person file" was not established in the NCIC until 1975. At the close of that fiscal year, only about 5,000 missing persons notices were on file with its new "Missing Persons Program" (indeed, we do not even know whether this special "missing persons program" still exists). However, the Bureau has reported that in August, 1981 approximately 5,100 missing persons listed in NCIC were located. The potential value of assuring that all missing children are included in the NCIC is therefore great. Given the lateness of the Bureau in devoting attention to missing persons (the Justice Department has had legislative authority to collect identification records since 1921), the tenuous nature of its involvement in this area, and its failure to seriously promote the use of NCIC as an aid in locating missing children, we believe passage of S.1701 is essential.

The fundamental intent of S.1701 is to mandate the FBI to accept into the NCIC computer information about missing children from authorized officials of federal, state, or local jurisdictions. Once enacted, Congress can use its oversight powers to assure that NCIC is being appropriately used on behalf of missing children, that the FBI is cooperating with (and receiving cooperation from) state and local jurisdictions, and that public awareness is increased on the incidence of missing children and the problems in locating them. The passage of S.1701 would also represent an important symbol of the concern of Congress about this problem to the bereaved parents of missing and murdered children.

It is important to comment on two things this legislation does not do. It would not impose a single new investigative responsibility on the FBI. Ideally, after the Act's passage the Justice Department would merely prepare a simple, self-explanatory form for use by either federal, state or local law enforcement personnel. This form would assist police and parents in assuring that all important identifying characteristics of missing children were placed into

the computer system. No FBI field office investigative involvement would be required. Also, contrary to some erroneous perceptions about the proposed Act, parents would have no direct access to any information from the NCIC computer. Only law enforcement agencies would have this access. Access to others is clearly prohibited by the U.S. Code (28 U.S.C. §534).

We understand that the Justice Department has opposed this bill because its passage might "interfere with the FBI's management prerogatives" relating to its policies on assisting other law enforcement agencies in the location of missing persons. We fear that in light of the record of the Justice Department's policy on limiting intervention in parental kidnapping cases, and lack of cooperation with state and local prosecutors, both contrary to the clear mandate of P.L. 96-611 (The Parental Kidnapping Prevention Act of 1980), it will continue to take a restrictive view of the importance of aiding "child victims."[2] Passage of S.1701 is thus not only necessary to assure that the FBI gives priority to these tragic victims and their families, but also so that its actions are monitored to assure conformance with the clear directives of law.

In conclusion, the Association believes that S.1701 represents a simple, yet important legal advance in the leadership role our federal government can play in helping locate and identify some of the youngest victims in our society. Its passage would do much to assure that the FBI truly assists state and local law enforcement agencies in dealing with missing children issues. Enactment of S.1701 would also elevate the concern for locating missing children to (and hopefully, surpass) the level of missing securities, motor vehicles, guns, license plates, and other pieces of property.

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[2]See Statement on behalf of ABA before the Subcommittee on Crime of the Senate Committee on the Judiciary concerning implementation of the Parental Kidnapping Prevention Act of 1980 (September 24, 1981).

APPENDIX A

AMERICAN BAR ASSOCIATION

NATIONAL LEGAL RESOURCE CENTER FOR CHILD ADVOCACY & PROTECTION

A Program of the Young Lawyers Division

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The National Legal Resource Center for Child Advocacy and Protection

The legal system, an integral part of the community child welfare network, has become increasingly involved in child abuse and neglect cases, termination of parent-child relationship proceedings, and other actions related to the legal rights of children. Under the *Adoption Assistance and Child Welfare Act of 1980* (Public Law 96-272), the legal system has also assumed greater responsibility for maintaining children in foster care.

Because the stakes are so high for child, parents and agencies alike, it is imperative that concerted efforts be made to improve the quality of legal representation in child welfare judicial proceedings.

To meet these needs, the American Bar Association, through its 120,000-member Young Lawyers Division, created the Resource Center with a view toward providing technical assistance to the wide range of professionals involved with the legal aspects of child welfare proceedings.

Resource Center support is provided by:

- The National Center on Child Abuse and Neglect and Children's Bureau (U.S. Department of Health and Human Services)
- The Edna McConnell Clark Foundation
- The Pew Memorial Trust
- The Robert Sterling Clark Foundation
- The Foundation for Child Development
- The Lilly Endowment, Inc.
- The American Bar Endowment and American Bar Association Young Lawyers Division

Major Projects

Child Abuse and Neglect: The Resource Center works to stimulate interest and develop expertise in the representation of maltreated children. It also provides consultation and training to the various disciplines and organizations involved in these cases. In this regard, the staff works closely with national judicial, legal services, guardian *ad litem*, social work, and educational agencies. For example, a book for judges on child abuse litigation has been developed, as has an educational videotape for attorneys representing child protective service agencies. A special project focusing on child sexual abuse has examined and reported on state laws, evidentiary issues, and prosecutorial programs and practices. The Center has also conducted the first National Guardian *Ad Litem* Policy Conference and has assembled materials on the subject for use in program development, evaluation and training.

Planning for Children in Foster Care: The Center focuses on this area through a special project which reviews relevant existing and proposed state laws, procedures and policies. The Center is also preparing a legal practice manual and is working with local organizations and attorneys on a number of "target sites" to effect crucial legal reforms. Project staff also regularly participate in training activities related to the effective use of the legal system to secure stable, permanent placements for children. Finally, the Center is developing a set of "legal framework evaluation" instruments to assist states, counties, cities, and local courts/systems in assessing their laws and legal policies against a set of standards based upon the new federal child welfare statute and good, accepted practices.

Child Custody: Recognizing that great harm can be done to children in inter-custody battles related to divorce or separation, the Center deals with the issue in several ways. First, a project has been mounted to secure enactment in all jurisdictions of the *Uniform Child Custody Jurisdiction Act* and to educate attorneys and judges on the appropriate use of this law as well as the new *Parental Kidnapping Prevention Act*. A major focus of this project is on custody disputes which cross state lines and which sometimes lead to what is commonly referred to as "child snatching." The Center is also beginning to explore the use of appointed counsel and guardians *ad litem* for children in intra-family custody disputes as a means of protecting the interests of children in these proceedings.

Bar Activation: An important part of the Center's work has involved the provision of modest financial and technical support to state and local legal projects throughout the country involved in court proceedings related to children. Through several rounds of grant competition for Center "mini-grants," encouragement has been given to projects which are supported by civic/community leaders involved in child welfare. These programs stress multi-disciplinary involvement in training, utilize the expertise resources of the organized bar and the donated time and services of individual attorneys, and develop invaluable written materials on the little-covered area of law.

Why a National Legal Resource Center for Child Advocacy and Protection?

To:

- Increase professional awareness and competency of the legal community in the area of child welfare issues
- Function as a national legal clearinghouse on important national issues in child welfare
- Develop active and effective child representation projects throughout the country
- Improve the skills of all major professional groups involved in court proceedings affecting children
- Reform child welfare-related laws and administrative and judicial procedures
- Encourage the participation of lawyers in interdisciplinary community endeavors concerning child protection
- Promote adoption of children's law training programs in law schools and continuing legal education programs
- Sensitize attorneys and judges to cultural, language, and value differences which impact upon child welfare legal proceedings

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